



Hong Kong Anti-Doping Committee  
香港運動禁藥委員會

# **Anti-Doping Rules of Hong Kong Anti-Doping Committee**

Version 2.1  
March 2018

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## **INTRODUCTION**

### **Preface**

These Anti-Doping Rules are adopted and implemented in accordance with the Hong Kong Anti-Doping Committee's (HKADC's) responsibilities under the World Anti-Doping Code -2015 (the *Code*), and are in furtherance of the HKADC's continuing efforts to eradicate doping in Hong Kong.

These Anti-Doping Rules are rules governing the conditions under which sport is played. Aimed at enforcing anti-doping principles in a global and harmonized manner, they are distinct in nature from criminal and civil laws, and not intended to be subject to or limited by any national requirements and legal standards applicable to criminal or civil proceedings. When reviewing the facts and the law of a given case, all courts, arbitral tribunals and other adjudicating bodies should be aware of and respect the distinct nature of these Anti-Doping Rules implementing the *Code* and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world as to what is necessary to protect and ensure fair sport.

### **Fundamental Rationale for the *Code* and the HKADC's Anti-Doping Rules**

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; the pursuit of human excellence through the dedicated perfection of each person's natural talents; and it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is reflected in values we find in and through sport, including:

- 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.

### **The National Anti-Doping Programme**

HKADC was established by the Sports Federation and Olympic Committee of Hong Kong, China (SF&OC) with the objective of acting as the independent *National Anti-Doping Organization* for Hong Kong. As such, HKADC has the necessary authority and responsibility for:

- Planning, coordinating, implementing, monitoring and advocating improvements in *Doping Control*;

- Cooperating with other relevant national organizations, agencies and other *Anti-Doping Organizations*;
- Encouraging reciprocal *Testing* between *National Anti-Doping Organizations*;
- Planning, implementing and monitoring anti-doping information, education and prevention programs;
- Promoting anti-doping research;
- Vigorously pursuing all potential anti-doping rule violations within its jurisdiction including investigating into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping, and ensuring proper enforcement of *Consequences*;
- Conducting an automatic investigation of *Athlete Support Personnel* within its jurisdiction in the case of any anti-doping rule violation by a *Minor* and of any *Athlete Support Personnel* who has provided support to more than one *Athlete* found to have committed an anti-doping rule violation;
- Cooperating fully with World Anti-Doping Agency (WADA) in connection with investigations conducted by WADA pursuant to Article 20.7.10 of the *Code*; and
- Using its influence to encourage the funding bodies to withhold some or all funding to an *Athlete* or *Athlete Support Personnel* while he or she is serving a period of *Ineligibility* for violation of anti-doping rules.

*[Comment: It is intended that there should be a National Anti-Doping Organization in each country, and that the National Anti-Doping Organization should be independent in operational decisions and activities from all public and sports movement bodies. The principle of independence underpins anti-doping programs worldwide and ensures the integrity of the anti-doping work].*

### **Scope of these Anti-Doping Rules**

The scope of application of these Anti-Doping Rules is set out in Article 1.

## **ARTICLE 1 APPLICATION OF ANTI-DOPING RULES**

### **1.1 Application to HKADC**

These Anti-Doping Rules shall apply to HKADC.

### **1.2 Application to *National Federations***

**1.2.1** As a condition of receiving financial and/or other assistance from the Government of Hong Kong and/or the *National Olympic Committee* of Hong Kong, each *National Federation* of Hong Kong shall accept and abide by the spirit and terms of Hong Kong's National Anti-Doping Program and these Anti-Doping Rules and shall incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules as part of the rules of sport that bind their members and *Participants*.

*[Comment to Article 1.2.1: HKADC shall work cooperatively with its Government and National Olympic Committee to ensure that recognition of HKADC and acceptance and application of these Anti-Doping Rules represents a pre-condition to a National Federation's receipt of any financial and/or other assistance from the Government and/or the National Olympic Committee.]*

**1.2.2** By adopting these Anti-Doping Rules, and incorporating them into their governing documents and rules of sport, *National Federations* recognize the authority and responsibility of HKADC for implementing the National Anti-Doping Programme and enforcing these Anti-Doping Rules (including carrying out *Testing*) in respect of all of the *Persons* listed in Article 1.3 below who are under the jurisdiction of the *National Federation*, and shall cooperate with and support HKADC in that function. They shall also recognize, abide by and give effect to the decisions made pursuant to these Anti-Doping Rules, including the decisions of hearing panels imposing sanctions on individuals under their jurisdiction.

### **1.3 Application to *Persons***

**1.3.1** These Anti-Doping Rules shall apply to the following *Persons* (including *Minors*), in each case, whether or not such *Person* is a national of or resident in Hong Kong:

**1.3.1.1** all *Athletes* and *Athlete Support Personnel* who are members or license-holders of any *National Federation* in Hong Kong, or of any member or affiliate organization of any *National Federation* in Hong Kong (including any clubs, teams, associations or leagues);

**1.3.1.2** all *Athletes* and *Athlete Support Personnel* who participate in such capacity in *Events*, *Competitions* and other activities organized, convened, authorized or recognized by any *National Federation* in Hong Kong, or by any member or affiliate organization of any *National Federation* in Hong Kong (including any clubs, teams, associations or leagues), wherever held;

**1.3.1.3** any other *Athlete* or *Athlete Support Person* or other *Person* who, by virtue of an accreditation, a licence or other contractual arrangement, or otherwise, is subject to the jurisdiction of any *National Federation* in Hong Kong, or of any member or affiliate organization of any *National Federation* in Hong Kong (including any clubs, teams, associations or leagues), for purposes of anti-doping;

**1.3.1.4** all *Athletes* and *Athlete Support Personnel* who participate in any capacity in any activity organized, held, convened or authorized by the organizer of a *National Event* or of a national league that is not affiliated with a *National Federation*; and

*[Comment to Article 1.3.1.4: These organizing bodies shall be incorporated into the national anti-doping programme]*

**1.3.1.5** all *Athletes* who do not fall within one of the foregoing provisions of this Article 1.3.1 but who wish to be eligible to participate in *International Events* or *National Events* (and such *Athletes* must be available for testing under these Anti-Doping Rules for at least six months before they will be eligible for such *Events*).

**1.3.2** These Anti-Doping Rules shall also apply to all other *Persons* over whom the *Code* gives HKADC jurisdiction, including all *Athletes* who are nationals of or resident in Hong Kong, and all *Athletes* who are present in Hong Kong, whether to compete or to train or otherwise.

**1.3.3** *Persons* falling within the scope of Article 1.3.1 or 1.3.2 are deemed to have accepted and to have agreed to be bound by these Anti-Doping Rules, and to have submitted to the authority of HKADC to enforce these Anti-Doping Rules and to the jurisdiction of the hearing panels specified in Article 8 and Article 13 to hear and determine cases and appeals brought under these Anti-Doping Rules, as a condition of their membership, accreditation and/or participation in their chosen sport.

#### **1.4 National-Level Athletes**

**1.4.1** Of all of the *Athletes* falling within the scope of Article 1.3, the following *Athletes* shall be deemed *National-Level Athletes* for purposes of these Anti-Doping Rules:

**1.4.1.1** *Athletes* who are included in the HKADC Testing Pools;

**1.4.1.2** *Athletes* selected to represent Hong Kong at regional and International Events;

but if any such *Athletes* are classified by their respective International Federations as *International-Level Athletes* then they shall be considered *International-Level Athletes* (and not *National-Level Athletes*) for purposes of these Anti-Doping Rules as well.

**1.4.2** These Anti-Doping Rules apply to all *Persons* falling within the scope of Article 1.3. However, in accordance with Article 4.3 of the *International Standard for Testing and Investigations*, the main focus of HKADC's Test Distribution Plan will be *National-Level Athletes* and above.

## **ARTICLE 2 DEFINITION OF DOPING - ANTI-DOPING RULE VIOLATIONS**

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of these Anti-Doping Rules.

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 have been violated.

*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:

### **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 rule violation under Article 2.1.

*[Comment to Article 2.1.1: An anti-doping rule violation is committed under this Article without regard to an Athlete's Fault. This rule has been referred to in various CAS decisions as "Strict Liability". An Athlete's Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under Article 10. This principle has consistently been upheld by CAS.]*

**2.1.2** Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any 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*; or, where the *Athlete'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.

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

## **2.2 Use or Attempted Use by an Athlete 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 below, 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, including data collected as part of the Athlete Biological Passport, 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.]*

**2.2.1** It is each *Athlete'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 *Athlete's* part be demonstrated in order to establish an anti-doping rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.

**2.2.2** 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.

*[Comment to Article 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance or a Prohibited Method 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 regardless of when that substance might have been administered).]*

### **2.3 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 authorized in these Anti-Doping Rules, or other applicable anti-doping rules.

*[Comment to Article 2.3: For example, it would be an anti-doping rule violation of "evading Sample collection" if it were established that an Athlete 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 Athlete, while "evading" or "refusing" Sample collection contemplates intentional conduct by the Athlete.]*

### **2.4 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 an *Athlete* in a *Registered Testing Pool*.

### **2.5 Tampering or Attempted Tampering with any part of Doping Control**

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 Organization*, or intimidating or attempting to intimidate a potential witness.

*[Comment to Article 2.5: For example, this Article 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 shall be addressed in the disciplinary rules of sport organizations.]*

## **2.6 Possession of Prohibited Substance or a Prohibited Method**

**2.6.1** *Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited in Out-of-Competition unless the Athlete establishes that the Possession is consistent with a therapeutic use exemption ("TUE") granted in accordance with Article 4.4 or other acceptable justification.*

**2.6.2** *Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Person establishes that the Possession is consistent with a TUE granted to an Athlete in accordance with Article 4.4 or other acceptable justification.*

*[Comment to Articles 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 Substance or Prohibited Method, or Administration or Attempted Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method**

## **that is prohibited *Out-of-Competition***

### **2.9 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 Article 10.12.1 by another *Person*.

### **2.10 Prohibited Association**

Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organization* in a professional or sport-related capacity with any *Athlete Support Person* who:

**2.10.1** if subject to the authority of an *Anti-Doping Organization*, is serving a period of *Ineligibility*; or

**2.10.2** if not subject to the authority of an *Anti-Doping Organization* and where *Ineligibility* has not been addressed in a results management process pursuant to the *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 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

**2.10.3** is serving as a front or intermediary for an individual described in Article 2.10.1 or 2.10.2.

In order for this provision to apply, it is necessary that the *Athlete* or other *Person* has previously been advised in writing by an *Anti-Doping Organization* with jurisdiction over the *Athlete* or other *Person*, or by WADA, of the *Athlete Support Person's* disqualifying status and the potential *Consequence* of prohibited association and that the *Athlete* or other *Person* can reasonably avoid the association. The *Anti-Doping Organization* shall also use reasonable efforts to advise the *Athlete Support Person* who is the subject of the notice to the *Athlete* or other *Person* that the *Athlete Support Person* may, within 15 days, come forward to the *Anti-Doping Organization* to explain that the criteria described in Articles 2.10.1 and 2.10.2 do not apply to him or her. (Notwithstanding Article 17, this Article applies even when the *Athlete Support Person's* disqualifying conduct occurred prior to the effective date provided in Article 20.7.)

The burden shall be on the *Athlete* or other *Person* to establish that any association with *Athlete Support Personnel* described in Article 2.10.1 or 2.10.2 is not in a professional or sport-related capacity.

*Anti-Doping Organizations that are aware of Athlete Support Personnel who meet the criteria described in Article 2.10.1, 2.10.2, or 2.10.3 shall submit that information to WADA.*

*[Comment to Article 2.10: Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel 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 Athlete Support Person to serve as an agent or representative. Prohibited association need not involve any form of compensation.]*

## **ARTICLE 3 PROOF OF DOPING**

### **3.1 Burdens and Standards of Proof**

HKADC shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether HKADC 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 these Anti-Doping Rules place 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.

*[Comment to Article 3.1: This standard of proof required to be met by HKADC is comparable to the standard which is applied in most countries to cases involving professional misconduct.]*

### **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 3.2: For example, HKADC may establish an anti-doping rule violation under Article 2.2 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, such as data from the Athlete Biological Passport.]*

**3.2.1** 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 *Athlete* 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. *CAS* on its own initiative may also inform *WADA* of any such challenge. At *WADA*'s request, the *CAS* 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 *CAS* file, *WADA* shall also have the right to intervene as a party, appear *amicus curiae*, or otherwise provide evidence in such proceeding.

**3.2.2** *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 *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 *HKADC* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

*[Comment to Article 3.2.2: 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 HKADC to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

**3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in the Code or these Anti-Doping Rules which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such evidence or results.

If the *Athlete* 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 *HKADC* 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.

**3.2.4** 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.

**3.2.5** The hearing panel in a hearing on an anti-doping 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 HKADC.

## **ARTICLE 4 THE PROHIBITED LIST**

### **4.1 Incorporation of the *Prohibited List***

These Anti-Doping Rules incorporate the *Prohibited List* which is published and revised by WADA as described in Article 4.1 of the *Code*.

*[Comment to Article 4.1: The current Prohibited List is available on WADA's website at [www.wada-ama.org](http://www.wada-ama.org).]*

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

#### **4.2.1 Prohibited Substances and Prohibited Methods**

Unless provided otherwise in the *Prohibited List* and/or a revision, the *Prohibited List* and revisions shall go into effect under these Anti-Doping Rules three months after publication by WADA without requiring any further action by HKADC. All *Athletes* and other *Persons* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Athletes* and other *Persons* to familiarize themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

#### **4.2.2 Specified Substances**

For purposes of the application of Article 10 below, 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*. The category of *Specified Substances* shall not include *Prohibited Methods*.

*[Comment to Article 4.2.2: The Specified Substances identified in Article 4.2.2 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 an Athlete for a purpose other than the enhancement of sport performance.]*

### **4.3 WADA's Determination of the Prohibited List**

WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List*, the classification of substances into categories on the *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 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 Exemptions ("TUEs")**

**4.4.1** 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 a *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.

**4.4.2** Unless otherwise specified by HKADC in a notice posted on its website, any *National-Level Athlete* who needs to *Use* a *Prohibited Substance* or *Prohibited Method* for therapeutic purposes should apply to HKADC for a TUE as soon as the need arises and in any event (save in emergency or exceptional situations or where Article 4.3 of the *International Standard* for Therapeutic Use Exemptions applies) at least 30 days before the *Athlete's* next *Competition*, using the form posted on HKADC's website. HKADC shall appoint a panel to consider applications for the grant or recognition of TUEs (the "TUE Panel"). The TUE Panel 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 HKADC protocols posted on its website. Its decision shall be the final decision of HKADC and shall be reported to WADA and other relevant *Anti-Doping Organizations* through Anti-Doping Administration and Management System (ADAMS), and also to the *Athlete's National Federation*, in accordance with the *International Standard* for Therapeutic Use Exemptions.

*[Comment to Article 4.4.2: In accordance with Article 5.1 of the International Standard for Therapeutic Use Exemptions, HKADC may decline to consider advance applications for TUEs from National-Level Athletes in sports that are not prioritized by HKADC in its Test Distribution Planning, but in that case it shall permit any such Athlete who is subsequently tested to apply for a retroactive TUE.]*

*The submission of false or misleadingly incomplete 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 Organization for such a TUE) may result in a charge of Tampering or Attempted Tampering under Article 2.5.*



*An Athlete 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 Athlete's own risk.]*

**4.4.3** If HKADC chooses to test an *Athlete* who is not an *International-Level* or a *National-Level Athlete*, HKADC shall permit that *Athlete* to apply for a retroactive *TUE* for any *Prohibited Substance* or *Prohibited Method* that he/she is using for therapeutic reasons.

*[Comment to Article 4.4.3: The International Standard for Therapeutic Use Exemptions also permits a National Anti-Doping Organization to limit the grant of advance TUEs to certain categories of National-Level Athletes. If a National Anti-Doping Organization chooses to collect a Sample from an Athlete who is a National-Level Athlete from whom the National Anti-Doping Organization does not accept advance applications for TUES, then the National Anti-Doping Organization must permit that Athlete to apply for a retroactive TUE, if necessary.]*

**4.4.4** A *TUE* granted by HKADC is valid at national level only; it is not automatically valid for international-level *Competition*. An *Athlete* who is or becomes an *International-Level Athlete* should do the following:

**4.4.4.1** Where the *Athlete* already has a *TUE* granted by HKADC for the substance or method in question, the *Athlete* may apply to his or her International Federation to recognize that *TUE*, in accordance with Article 7 of the *International Standard* for Therapeutic Use Exemptions. If that *TUE* meets the criteria set out in the *International Standard* for Therapeutic Use Exemptions, then the International Federation shall recognize it for purposes of international-level *Competition* as well. If the International Federation considers that the *TUE* granted by HKADC does not meet those criteria and so refuses to recognize it, the International Federation shall notify the *International-Level Athlete* and HKADC promptly, with reasons. The *International-Level Athlete* and HKADC shall have 21 days from such notification to refer the matter to WADA for review. If the matter is referred to WADA for review in accordance with Article 4.4.6, the *TUE* granted by HKADC remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for international-level *Competition*) pending WADA's decision. If the matter is not referred to WADA for review, the *TUE* becomes invalid for any purpose when the 21-day review deadline expires.

*[Comment to Article 4.4.4.1: Further to Articles 5.6 and 7.1(a) of the International Standard for Therapeutic Use Exemptions, an International Federation may publish notice on its website that it will automatically recognize TUE decisions (or*

*categories of such decisions, e.g., as to particular substances or methods) made by National Anti-Doping Organizations. If an Athlete's TUE falls into a category of automatically recognized TUEs, then he/she does not need to apply to his/her International Federation for recognition of that TUE.*

*In accordance with the requirements of the International Standard for Therapeutic Use Exemptions, HKADC will help its Athletes to determine when they need to submit TUEs granted by HKADC to an International Federation or Major Event Organization for recognition, and will guide and support those Athletes through the recognition process.*

*If an International Federation refuses to recognize a TUE granted by HKADC only because medical records or other information are missing that are needed to demonstrate satisfaction with the criteria in the International Standard for Therapeutic Use Exemptions, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to the International Federation.]*

**4.4.4.2** If the Athlete does not already have a TUE granted by HKADC for the substance or method in question, the Athlete must apply directly to the International Federation for a TUE in accordance with the process set out in the *International Standard for Therapeutic Use Exemptions*. If the International Federation grants the Athlete's application, it shall notify the Athlete and HKADC. If HKADC considers that the TUE granted by the International Federation does not meet the criteria set out in the *International Standard for Therapeutic Use Exemptions*, it has 21 days from such notification to refer the matter to WADA for review. If HKADC refers the matter to WADA for review, the TUE granted by the International Federation remains valid for international-level *Competition* and *Out-of-Competition Testing* (but is not valid for national-level *Competition*) pending WADA's decision. If HKADC does not refer the matter to WADA for review, the TUE granted by the International Federation becomes valid for national-level *Competition* as well when the 21-day review deadline expires.

*[Comment to Article 4.4.4.2: The International Federation and HKADC may agree that HKADC will consider TUE applications on behalf of the International Federation.]*

#### **4.4.5 Expiration, Cancellation, Withdrawal or Reversal of a TUE**

**4.4.5.1** A TUE granted pursuant to these Anti-Doping Rules: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) may be cancelled if the Athlete does not promptly comply with any requirements or conditions imposed by the TUE Panel upon grant of the TUE; (c) may be withdrawn by the TUE Panel if it is subsequently determined that the criteria for grant of a TUE are not in fact met; or (d) may be reversed on review by WADA or on appeal.

**4.4.5.2** In such event, the *Athlete* shall not be subject to any *Consequences* based on his/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 pursuant to Article 7.2 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.

#### **4.4.6 Reviews and Appeals of TUE Decisions**

**4.4.6.1** If HKADC denies an application for a *TUE*, the *Athlete* may appeal exclusively to the national-level appeal body described in Articles 13.2.2 and 13.2.3.

**4.4.6.2** WADA shall review any decision by an International Federation not to recognize a *TUE* granted by HKADC that is referred to WADA by the *Athlete* or HKADC. In addition, WADA shall review any decision by an International Federation to grant a *TUE* that is referred to WADA by HKADC. WADA may review any other *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.

**4.4.6.3** Any *TUE* decision by an International Federation (or by HKADC where it has agreed to consider the application on behalf of an International Federation) that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the *Athlete* and/or HKADC exclusively to CAS, in accordance with Article 13.

*[Comment to Article 4.4.6.3: In such cases, the decision being appealed is the International Federation's TUE decision, not WADA's decision not to review the TUE decision or (having reviewed it) not to reverse the TUE decision. However, the time to appeal the TUE decision does not begin to run until the date that WADA communicates its decision. In any event, whether the decision has been reviewed by WADA or not, WADA shall be given notice of the appeal so that it may participate if it sees fit.]*

**4.4.6.4** A decision by WADA to reverse a *TUE* decision may be appealed by the *Athlete*, HKADC and/or the International Federation affected exclusively to CAS, in accordance with Article 13.

**4.4.6.5** 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.

## **ARTICLE 5 TESTING AND INVESTIGATIONS**

### **5.1 Purpose of *Testing* and Investigations**

*Testing* and investigations shall only be undertaken for anti-doping purposes. They shall be conducted in conformity with the provisions of the *International Standard for Testing and Investigations* and the specific protocols of HKADC, as per Appendix 3, supplementing that *International Standard*.

**5.1.1** *Testing* shall be undertaken to obtain analytical evidence as to the *Athlete's* compliance (or non-compliance) with the strict *Code* prohibition on the presence/Use of a *Prohibited Substance* or *Prohibited Method*. Test Distribution Planning, *Testing*, post-*Testing* activity and all related activities conducted by HKADC shall be in conformity with the *International Standard for Testing and Investigations*. HKADC shall determine the number of finishing placement tests, random tests and target tests to be performed in accordance with the criteria established by the *International Standard for Testing and Investigations*. All provisions of the *International Standard for Testing and Investigations* shall apply automatically in respect of all such *Testing*.

**5.1.2** Investigations shall be undertaken:

**5.1.2.1** in relation to *Atypical Findings*, *Atypical Passport Findings* and *Adverse Passport Findings*, in accordance with Articles 7.4 and 7.5 respectively, gathering intelligence or evidence (in particular, analytical evidence) in order to determine whether an anti-doping rule violation has occurred under Article 2.1 and/or Article 2.2; and

**5.1.2.2** in relation to other indications of potential anti-doping rule violations, in accordance with Articles 7.6 and 7.7, 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 Articles 2.2 to 2.10.

**5.1.3** HKADC 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).

## **5.2 Authority to Conduct Testing**

**5.2.1** Subject to the jurisdictional limitations for *Event Testing* set out in Article 5.3 of the *Code*, HKADC shall have *In-Competition* and *Out-of-Competition Testing* authority over all of the *Athletes* falling within the scope of Article 1.3 above.

**5.2.2** HKADC may require any *Athlete* over whom it has *Testing* authority (including any *Athlete* serving a period of *Ineligibility*) to provide a *Sample* at any time and at any place.

*[Comment to Article 5.2.2: Unless the Athlete 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, HKADC will not test an Athlete during that period unless it has serious and specific suspicions that the Athlete may be engaged in doping. A challenge to whether HKADC had sufficient suspicion for Testing in that period shall not be a defense to an anti-doping rule violation based on such test or attempted test.]*

**5.2.3** WADA shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.8 of the *Code*.

**5.2.4** If an International Federation or *Major Event Organization* delegates or contracts any part of *Testing* to HKADC (directly or through a *National Federation*), HKADC may collect additional *Samples* or direct the laboratory to perform additional types of analysis at HKADC's expense. If additional *Samples* are collected or additional types of analysis are performed, the International Federation or *Major Event Organization* shall be notified.

**5.2.5** Where another *Anti-Doping Organization* with *Testing* authority over an *Athlete* who is subject to these Anti-Doping Rules conducts *Testing* on that *Athlete*, HKADC and the *Athlete's National Federation* shall recognize such *Testing* in accordance with Article 15, and (where agreed with that other *Anti-Doping Organization* or otherwise provided in Article 7 of the *Code*) HKADC may bring proceedings against the *Athlete* pursuant to these Anti-Doping Rules for any anti-doping rule violation(s) arising in relation to such *Testing*.

## **5.3 Event Testing**

**5.3.1** Except as provided in Article 5.3 of the *Code*, only a single organization should be responsible for initiating and directing *Testing* at *Event Venues* during an *Event Period*. At *International Events* held in Hong Kong, the collection of *Samples* shall be initiated and directed by the International Federation (or any other international organization

which is the ruling body for the *Event*). At *National Events* held in Hong Kong, the collection of *Samples* shall be initiated and directed by HKADC. At the request of HKADC (or the ruling body for that *Event*), any *Testing* during the *Event Period* outside of the *Event Venues* shall be coordinated with HKADC (or the relevant ruling body).

**5.3.2** If an *Anti-Doping Organization* which would otherwise have *Testing* authority but is not responsible for initiating and directing *Testing* at an *Event* desires to conduct *Testing* of *Athletes* at the *Event Venues* during the *Event Period*, the *Anti-Doping Organization* shall first confer with HKADC (or the ruling body of the *Event*) to obtain permission to conduct and coordinate such *Testing*. If the *Anti-Doping Organization* is not satisfied with the response from HKADC (or the ruling body of the *Event*), the *Anti-Doping Organization* may ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*, in accordance with the procedures set out in the *International Standard for Testing and Investigations*. WADA shall not grant approval for such *Testing* before consulting with and informing HKADC (or the ruling body for the *Event*). WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorization to conduct *Testing*, such tests shall be considered *Out-of-Competition* tests. Results management for any such test shall be the responsibility of the *Anti-Doping Organization* initiating the test unless provided otherwise in the rules of the ruling body of the *Event*.

**5.3.3** *National Federations* and the organizing committees for *National Events*, shall authorize and facilitate the *Independent Observer Program* at such *Events*.

## **5.4 Test Distribution Planning**

Consistent with the *International Standard for Testing and Investigations*, and in coordination with other *Anti-Doping Organizations* conducting *Testing* on the same *Athletes*, HKADC shall develop and implement an effective, intelligent and proportionate test distribution plan that prioritizes appropriately between disciplines, categories of *Athletes*, types of *Testing*, types of *Samples* collected, and types of *Sample* analysis, all in compliance with the requirements of the *International Standard for Testing and Investigations*. HKADC shall provide WADA upon request with a copy of its current test distribution plan.

## **5.5 Coordination of Testing**

Where reasonably feasible, *Testing* shall be coordinated through ADAMS or other system approved by WADA in order to maximize the effectiveness of the combined *Testing* effort and to avoid unnecessary repetitive *Testing*.

## **5.6 Athlete Whereabouts Information**

**5.6.1** HKADC shall identify a *Registered Testing Pool* of those *Athletes* who are required to comply with the whereabouts requirements of

Annex I to the *International Standard for Testing and Investigations*. Each *Athlete* in the *Registered Testing Pool* shall do the following, in each case in accordance with Annex I to the *International Standard for Testing and Investigations*: (a) advise HKADC of his/her whereabouts on a quarterly basis; (b) update that information as necessary so that it remains accurate and complete at all times; and (c) make him/herself available for *Testing* at such whereabouts.

**5.6.2** HKADC shall make available through *ADAMS* a list which identifies those *Athletes* included in its *Registered Testing Pool* either by name or by clearly defined, specific criteria. HKADC shall coordinate with International Federations the identification of such *Athletes* and the collecting of their whereabouts information. Where an *Athlete* is included in an international *Registered Testing Pool* by his/her International Federation and in national *Registered Testing Pool* by HKADC, HKADC and the International Federation shall agree between themselves which of them shall accept that *Athlete's* whereabouts filings; in no case shall an *Athlete* be required to make whereabouts filings to more than one of them. HKADC shall review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool*, and shall revise the membership of its *Registered Testing Pool* from time to time as appropriate in accordance with those criteria. *Athletes* shall be notified before they are included in a *Registered Testing Pool* and when they are removed from that pool.

**5.6.3** For purposes of Article 2.4, an *Athlete's* failure to comply with the requirements of the *International Standard for Testing and Investigations* shall be deemed a Filing Failure or a Missed Test (as defined in the *International Standard for Testing and Investigations*) where the conditions set forth in the *International Standard for Testing and Investigations* for declaring a Filing Failure or Missed Test are met.

**5.6.4** An *Athlete* in HKADC's *Registered Testing Pool* shall continue to be subject to the obligation to comply with the whereabouts requirements of Annex I to the *International Standard for Testing and Investigations* unless and until (a) the *Athlete* gives written notice to HKADC that he/she has retired or (b) HKADC has informed him/her that he/she no longer satisfies the criteria for inclusion in HKADC's *Registered Testing Pool*.

**5.6.5** Whereabouts information relating to an *Athlete* shall be shared (through *ADAMS*) with *WADA* and other *Anti-Doping Organizations* having authority to test that *Athlete*, shall be maintained in strict confidence at all times, shall be used exclusively for the purposes set out in Article 5.6 of the *Code*, and shall be destroyed in accordance with the *International Standard for the Protection of Privacy and Personal Information* once it is no longer relevant for these purposes.

## **5.7 Retired Athletes Returning to Competition**

**5.7.1** An *Athlete* in HKADC's Testing Pools who has given notice of retirement to HKADC, and having been formally deleted from the HKADC testing pool, he/she may not resume competing at an International Event unless the following conditions are satisfied :-

(a) for any athlete who has been included in International Federation's *Registered Testing Pool* or is bound by any regulation(s) of International Federation on returning to competitions after retirement, he or she has notified the corresponding International Federation and HKADC at least six months or such period in advance as stipulated under such International Federation's related regulation for notification, whichever is more stringent, before he/she expects to return to an *International Event*; and during which period he or she has provided whereabouts information and has made himself/herself available for unannounced Out-of-Competition Testing accordingly;

(b) for any other athletes, he or she has notified HKADC at least six months in advance before he or she expects to return to an *International Event*, and during which period he or she has provided HKADC whereabouts information and has made himself/herself available for unannounced *Out-of-Competition Testing*.

(c) WADA, in consultation with HKADC and the *Athlete's* International Federation, may grant an exemption to the six-month written notice rule where the strict application of that rule would be manifestly unfair to an *Athlete*. This decision may be appealed under Article 13. Any competitive results obtained in violation of this Article 5.7.1 shall be *Disqualified*.

**5.7.2** Having given notice of retirement to HKADC, and having been formally deleted from the HKADC testing pool, an athlete may not resume competing at a *National Event* unless he/she agrees to make him/herself available for unannounced Out-of-Competition Testing.

**5.7.3** If an *Athlete* retires from sport while subject to a period of *Ineligibility* the *Athlete* shall not resume competing in *International Events* or *National Events* until the *Athlete* has given six months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six months) to HKADC and to his/her *International Federation* of his/her intent to resume competing and has made him/herself available for *Testing* for that notice period, including (if requested) complying with the whereabouts requirements of Annex I to the *International Standard for Testing and Investigations*.



## **ARTICLE 6 ANALYSIS OF SAMPLES**

*Samples* shall be analysed in accordance with the following principles:

### **6.1 Use of Accredited and Approved Laboratories**

For purposes of Article 2.1, *Samples* shall be analyzed only in laboratories accredited or otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the *Sample* analysis shall be determined exclusively by HKADC.

*[Comment to Article 6.1: Violations of Article 2.1 may be established only by Sample analysis performed by a laboratory accredited or otherwise approved by WADA. Violations of other Articles may be established using analytical results from other laboratories so long as the results are reliable.]*

### **6.2 Purpose of Analysis of Samples**

**6.2.1** *Samples* shall be analyzed 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 *Code*; or to assist in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose. *Samples* may be collected and stored for future analysis.

*[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, or both.]*

**6.2.2** HKADC shall ask laboratories to analyze *Samples* in conformity with Article 6.4 of the *Code* and Article 4.7 of the *International Standard* for Testing and Investigations.

### **6.3 Research on Samples**

No *Sample* may be used for research 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 *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 *Code* will establish risk assessment-based *Sample* analysis menus appropriate for particular sports and sport disciplines, and laboratories shall analyze *Samples* in conformity with those menus, except as follows:

**6.4.1** HKADC may request that laboratories analyze its *Samples* using more extensive menus than those described in the Technical Document.

**6.4.2** HKADC may request that laboratories analyze its *Samples* using less extensive menus than those described in the Technical Document only if it has satisfied WADA that, because of the particular circumstances of its country or of the sport in question, as set out in its Test Distribution Plan, less extensive analysis would be appropriate.

**6.4.3** As provided in the *International Standard* for Laboratories, laboratories at their own initiative and expense may analyze *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.

*[Comment to Article 6.4: The objective of this Article is to extend the principle of "Intelligent Testing" to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognized 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 analyzed.]*

## **6.5 Further Analysis of Samples**

Any *Sample* may be stored and subsequently subjected to further analysis for the purposes set out in Article 6.2: (a) by WADA at any time; and/or (b) by HKADC 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 HKADC to the *Athlete* as the asserted basis for an Article 2.1 anti-doping rule violation. Such further analysis of *Samples* shall conform with the requirements of the *International Standard* for Laboratories and the *International Standard* for Testing and Investigations.

## **ARTICLE 7 RESULTS MANAGEMENT**

### **7.1 Responsibility for Conducting Results management**

**7.1.1** HKADC shall take responsibility for results management in respect of *Athletes* and other *Persons* under its anti-doping jurisdiction in accordance with the principles set out in Article 7 of the *Code*.

**7.1.2** For purposes of determining responsibility for results management, where HKADC elects to collect additional *Samples* in the circumstances set out in Article 5.2.4, then it shall be considered the *Anti-Doping Organization* that initiated and directed *Sample* collection. However, where HKADC only directs the laboratory to perform additional types of analysis at the HKADC's expense, then the International Federation or *Major Event Organization* shall be

considered the *Anti-Doping Organization* that initiated and directed *Sample* collection.

**7.1.3** The HKADC Executive shall appoint a Doping Control Panel consisting of a Chair and at least 2 other members with experience in anti-doping. Each panel member shall serve a term of one year. If a panel member dies or resigns, the HKADC Executive may appoint another person to the panel to fill the resultant vacancy. The person so appointed shall be appointed for the remainder of the term of the member he/she is replacing. A panel member may be re-appointed by the HKADC Executive. When a potential violation is referred to the Doping Control Panel by HKADC, the Doping Control Panel shall conduct the review discussed in this Article.

## **7.2 Review of Adverse Analytical Findings from Tests Initiated by HKADC**

Results management in respect of the results of tests initiated by HKADC shall proceed as follows:

**7.2.1** The results from all analyses must be sent to HKADC in encoded form, in a report signed by an authorized representative of the laboratory. All communication must be conducted confidentially and in conformity with *ADAMS*.

**7.2.2** Upon receipt of an *Adverse Analytical Finding*, HKADC shall conduct a review to determine whether: (a) an applicable *TUE* 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 and Investigations* or *International Standard for Laboratories* that caused the *Adverse Analytical Finding*.

**7.2.3** If the review of an *Adverse Analytical Finding* under Article 7.2.2 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 and the *Athlete*, the *Athlete's International Federation* the *Athlete's National Federation* and *WADA* shall be so informed.

## **7.3 Notification After Review Regarding Adverse Analytical Findings**

**7.3.1** If the review of an *Adverse Analytical Finding* under Article 7.2.2 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*, HKADC shall promptly notify

the *Athlete*, and simultaneously the *Athlete's* International Federation, the *Athlete's National Federation* and WADA, in the manner set out on Article 14.1, of (a) the *Adverse Analytical Finding*; (b) the anti-doping rule violated; (c) the *Athlete'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; (d) the scheduled date, time and place for the B *Sample* analysis if the *Athlete* or HKADC 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 in accordance with the *International Standard* for Laboratories; 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. If HKADC decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it shall so notify the *Athlete*, the *Athlete's* International Federation, the *Athlete's* National Federation and WADA.

**7.3.2** Where requested by the *Athlete* or HKADC, arrangements shall be made to analyze the B *Sample* in accordance with the *International Standard* for Laboratories. An *Athlete* may accept the A *Sample* analytical results by waiving the requirement for B *Sample* analysis. HKADC may nonetheless elect to proceed with the B *Sample* analysis.

**7.3.3** The *Athlete* and/or his representative shall be allowed to be present at the analysis of the B *Sample*. Also a representative of HKADC shall be allowed to be present.

**7.3.4** If the B *Sample* analysis does not confirm the A *Sample* analysis, then (unless HKADC takes the case forward as an anti-doping rule violation under Article 2.2) the entire case shall be considered negative and the *Athlete*, the *Athlete's* International Federation, the *Athlete's* National Federation and WADA shall be so informed.

**7.3.5** If the B *Sample* analysis confirms the A *Sample* analysis, the findings shall be reported to the *Athlete*, the *Athlete's* International Federation, the *Athlete's National Federation*, and WADA.

## **7.4 Review of Atypical Findings**

**7.4.1** 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*, i.e., as findings that are subject to further investigation.

**7.4.2** Upon receipt of an *Atypical Finding*, HKADC shall conduct a review to determine whether: (a) an applicable *TUE* 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 and Investigations or

*International Standard* for Laboratories that caused the *Atypical Finding*.

**7.4.3** If the review of an *Atypical Finding* under Article 7.4.2 reveals an applicable *TUE* or 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 *Athlete*, the *Athlete's* International Federation and *WADA* shall be so informed.

**7.4.4** 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*, HKADC shall conduct the required investigation or cause it to be conducted. After the investigation is completed, either the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*, in accordance with Article 7.3.1, or else the *Athlete*, the *Athlete's* International Federation, the *Athlete's National Federation* and *WADA* shall be notified that the *Atypical Finding* will not be brought forward as an *Adverse Analytical Finding*.

**7.4.5** HKADC 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:

**7.4.5.1** If HKADC determines the *B Sample* should be analyzed prior to the conclusion of its investigation, it 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 7.3.1(d) - (f).

**7.4.5.2** If HKADC is asked (a) by a *Major Event Organization* shortly before one of its *International Events*, or (b) by 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*, HKADC shall so advise the *Major Event Organization* or sports organization after first providing notice of the *Atypical Finding* to the *Athlete*.

## **7.5 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 HKADC is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously the *Athlete's* International Federation, the

*Athlete's National Federation* and WADA) notice of the anti-doping rule violation asserted and the basis of that assertion.

## **7.6 Review of Whereabouts Failures**

HKADC shall review potential Filing Failures and Missed Tests (as defined in the *International Standard for Testing and Investigations*) in respect of *Athletes* who file their whereabouts information with HKADC, in accordance with Annex I to the *International Standard for Testing and Investigations*. At such time as HKADC is satisfied that an Article 2.4 anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously the *Athlete's International Federation*, the *Athlete's National Federation*, and WADA) notice that it is asserting a violation of Article 2.4 and the basis of that assertion.

## **7.7 Review of Other Anti-Doping Rule Violations Not Covered by Articles 7.2–7.6**

HKADC shall conduct any follow-up investigation required into a possible anti-doping rule violation not covered by Articles 7.2-7.6. At such time as HKADC is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* or other *Person* (and simultaneously the *Athlete's International Federation*, the *Athlete's National Federation*, and WADA) notice of the anti-doping rule violation asserted, and the basis of that assertion.

## **7.8 Identification of Prior Anti-Doping Rule Violations**

Before giving an *Athlete* or other *Person* notice of an asserted anti-doping rule violation as provided above, HKADC shall refer to *ADAMS* and contact *WADA* and other relevant *Anti-Doping Organizations* to determine whether any prior anti-doping rule violation exists.

## **7.9 Provisional Suspensions**

**7.9.1 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 Article 7.2.2 does not reveal 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*, a *Provisional Suspension* shall be imposed upon or promptly after the notification described in Articles 7.2, 7.3 or 7.5.

**7.9.2 Optional Provisional Suspension:** In case of an *Adverse Analytical Finding* for a *Specified Substance*, or in the case of any other anti-doping rule violations not covered by Article 7.9.1, HKADC may impose a *Provisional Suspension* on the *Athlete* or other *Person* against whom the anti-doping rule violation is asserted at any time after the review and notification described in Articles 7.2–7.7 and prior to the final hearing as described in Article 8.

**7.9.3** Where a *Provisional Suspension* is imposed pursuant to Article 7.9.1 or Article 7.9.2, the *Athlete* or other *Person* shall be given either: (a) an opportunity for a Provisional Hearing either before or on a timely basis after imposition of the Provisional Suspension; or (b) an opportunity for an expedited final hearing in accordance with Article 8 on a timely basis after imposition of the *Provisional Suspension*. Furthermore, the *Athlete* or other *Person* has a right to appeal from the *Provisional Suspension* in accordance with Article 13.2 (save as set out in Article 7.9.3.1).

**7.9.3.1** The *Provisional Suspension* may be lifted if the *Athlete* 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 *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

**7.9.3.2** The *Provisional Suspension* shall be imposed (or shall not be lifted) unless the *Athlete* or other *Person* establishes that: (a) the assertion of an anti-doping rule violation has no reasonable prospect of being upheld, e.g., because of a patent flaw in the case against the *Athlete* or other *Person*; (b) the *Athlete* 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 by application of Article 10.4; or (c) some other facts exist that make it clearly unfair, in all of the circumstances, to impose a *Provisional Suspension* prior to a final hearing in accordance with Article 8. This ground is to be construed narrowly, and applied only in truly exceptional circumstances. For example, the fact that the *Provisional Suspension* would prevent the *Athlete* or other *Person* participating in a particular *Competition* or *Event* shall not qualify as exceptional circumstances for these purposes.

**7.9.4** 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 *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of Article 2.1. In circumstances where the *Athlete* (or the *Athlete's* team) 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, then if it is still possible for the *Athlete* or team to be reinserted without otherwise affecting the *Competition*, the *Athlete* or team may continue to take part in the *Competition*. In addition, the *Athlete* or team may thereafter take part in other *Competitions* in the same *Event*.

**7.9.5** In all cases where an *Athlete* or other *Person* has been notified of an anti-doping rule violation but a *Provisional Suspension* has not been imposed on him or her, the *Athlete* or other *Person* shall be offered the opportunity to accept a *Provisional Suspension* voluntarily pending the resolution of the matter.

[*Comment to Article 7.9: Athletes and other Persons shall receive credit for a Provisional Suspension against any period of Ineligibility which is ultimately imposed. See Articles 10.11.3.1 and 10.11.3.2*]

## **7.10 Resolution Without a Hearing**

**7.10.1** An *Athlete* 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 these Anti-Doping Rules or (where some discretion as to *Consequences* exists under these Anti-Doping Rules) that have been offered by HKADC.

**7.10.2** Alternatively, if the *Athlete* or other *Person* against whom an anti-doping rule violation is asserted fails to dispute that assertion within the deadline specified in the notice sent by the HKADC 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 these Anti-Doping Rules or (where some discretion as to *Consequences* exists under these Anti-Doping Rules) that have been offered by HKADC.

**7.10.3** In cases where Article 7.10.1 or Article 7.10.2 applies, a hearing before a hearing panel shall not be required. Instead HKADC shall promptly issue a written decision confirming the commission of the anti-doping rule violation and the *Consequences* imposed as a result, and setting out the full reasons for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential period of *Ineligibility* was not imposed. HKADC shall send copies of that decision to other *Anti-Doping Organizations* with a right to appeal under Article 13.2.3, and shall *Publicly Disclose* that decision in accordance with Article 14.3.2.

## **7.11 Notification of Results Management Decisions**

In all cases where HKADC has asserted the commission of an anti-doping rule violation, withdrawn the assertion of an anti-doping rule violation, imposed a *Provisional Suspension*, or agreed with an *Athlete* or other *Person* on the imposition of *Consequences* without a hearing, HKADC shall give notice thereof in accordance with Article 14.2.1 to other *Anti-Doping Organizations* with a right to appeal under Article 13.2.3.



## **7.12 Retirement from Sport**

If an *Athlete* or other *Person* retires while HKADC is conducting the results management process, HKADC retains jurisdiction to complete its results management process. If an *Athlete* or other *Person* retires before any results management process has begun and HKADC would have had results management authority over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, HKADC has authority to conduct results management in respect of that anti-doping rule violation.

*[Comment to Article 7.12: Conduct by an Athlete or other Person before the Athlete or other Person was subject to the jurisdiction of any Anti-Doping Organization would not constitute an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a sports organization.]*

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

### **8.1 Hearing following HKADC's Result Management**

**8.1.1** SF&OC shall appoint the independent Hong Kong Anti-Doping Disciplinary Panel consisting of a Chair and two Vice-Chairs, each of whom shall have been practicing lawyers or have been judges, as defined in the Interpretation and General Clauses Ordinance, for not less than five years; three medical practitioners of not less than five years standing; and three additional members, each of whom shall be, or has previously been, a sports administrator or an *Athlete*, all of whom will be appointed on the basis that they are in a position to hear the cases fairly and impartially. Each panel member shall be appointed for a term of one year. If a panel member dies or resigns, SF&OC may appoint another person to the panel to fill the resultant vacancy. The person so appointed shall be appointed for the remainder of the term of the member he/she is replacing. A panel member may be re-appointed by the SF&OC.

**8.1.2** When HKADC sends a notice to an *Athlete* or other *Person* asserting an anti-doping rule violation, and the *Athlete* or other *Person* does not waive a hearing in accordance with Article 7.10.1 or Article 7.10.2, then the case shall be referred to the *Hong Kong Anti-Doping Disciplinary Panel* for hearing and adjudication. Upon such referral, Chair of the Hong Kong Anti-Doping Disciplinary Panel, or in his/her absence, a Vice-Chair, shall appoint three members of the panel to hear and adjudicate the matter. Each such hearing panel shall comprise the Chair or a Vice-Chair as chair of the hearing panel. The appointed members shall have had no prior involvement with the case. Each member, upon appointment, shall disclose to the Chair any circumstances likely to affect impartiality with respect to any of the parties.

## **8.2 Principles for a Fair Hearing**

**8.2.1** Hearings shall be scheduled and completed within a reasonable time. Hearings held in connection with *Events* that are subject to these Anti-Doping Rules may be conducted by an expedited process where permitted by the hearing panel.

*[Comment to Article 8.2.1: 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.]*

**8.2.2** The Hong Kong Anti-Doping Disciplinary Panel shall determine the procedure to be followed at the hearing.

**8.2.3** WADA and the *National Federation* of the *Athlete* or other *Person* may attend the hearing as observers. In any event, HKADC shall keep WADA fully apprised as to the status of pending cases and the result of all hearings.

**8.2.4** The Hong Kong Anti-Doping Disciplinary Panel shall act in a fair and impartial manner towards all parties at all times.

## **8.3 Decisions of Hong Kong Anti-Doping Disciplinary Panel**

**8.3.1** At the end of the hearing, or on a timely basis thereafter, the Hong Kong Anti-Doping Disciplinary Panel shall issue a written, dated and signed decision (either unanimously or by majority) that includes the full reasons for the decision and for any period of *Ineligibility* imposed, including (if appropriate) a justification for why the maximum potential *Consequence* was not imposed.

**8.3.2** The decision shall be provided by HKADC to the *Athlete* or other *Person*, to his/her *National Federation*, and to *Anti-Doping Organizations* with a right to appeal under Article 13.2.3.

**8.3.3** The decision may be appealed as provided in Article 13. If no appeal is brought against the decision, then (a) if the decision is that an anti-doping rule violation was committed, the decision shall be *Publicly Disclosed* as provided in Article 14.3.2; but (b) if the decision is that no anti-doping rule violation was committed, then the decision shall only be *Publicly Disclosed* with the consent of the *Athlete* or other *Person* who is the subject of the decision. HKADC 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. The principles contained at Article 14.3.6 shall be applied in cases involving a *Minor*.

#### **8.4 Single Hearing Before the Court of Arbitration for Sport (CAS)**

Cases asserting anti-doping rule violations against *International-Level Athletes* or *National-Level Athletes* may be heard directly at CAS, with no requirement for a prior hearing, with the consent of the *Athlete*, HKADC, WADA, and any other *Anti-Doping Organization* that would have had a right to appeal a first instance hearing decision to CAS.

*[Comment to Article 8.4: Where all of the parties identified in this Article are satisfied that their interests will be adequately protected in a single hearing, there is no need to incur the extra expense of two hearings. An Anti-Doping Organization that wants to participate in the CAS hearing as a party or as an observer may condition its approval of a single hearing on being granted that right.]*

### **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: For Team Sports, any awards received by individual players will be Disqualified. However, Disqualification of the team will be as provided in Article 11. 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.

*Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Athlete's anti-doping rule violation and whether the Athlete tested negative in the other Competitions.*

*[Comment to Article 10.1: Whereas Article 9 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).]*

**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 anti-doping rule violation occurred were likely to have been affected by the *Athlete's* anti-doping rule violation.

## **10.2 *Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method***

The period of *Ineligibility* for a violation of Articles 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension pursuant to Article 10.4, 10.5 or 10.6:

**10.2.1** The period of *Ineligibility* shall be four years where:

**10.2.1.1** The anti-doping rule violation does not involve a *Specified Substance*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

**10.2.1.2** The anti-doping rule violation involves a *Specified Substance* and HKADC can establish that the anti-doping rule violation was intentional.

**10.2.2** If Article 10.2.1 does not apply, the period of *Ineligibility* shall be two years.

**10.2.3** As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those *Athletes* who cheat. The term therefore requires that the *Athlete* 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 *Athlete* 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 *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance.

## **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, unless Articles 10.5 or 10.6 are applicable:

**10.3.1** For violations of Article 2.3 or Article 2.5, the period of *Ineligibility* shall be four years unless, in the case of failing to submit to *Sample* collection, the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional (as defined in Article 10.2.3), in which case the period of *Ineligibility* shall be two years.

**10.3.2** For violations of Article 2.4, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete's* degree of *Fault*. The flexibility between two years and one year of *Ineligibility* in this Article is not available to *Athletes* where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

**10.3.3** For violations of Article 2.7 or 2.8, the period of *Ineligibility* shall be a minimum of four years up to lifetime *Ineligibility*, depending on the seriousness of the violation. An Article 2.7 or Article 2.8 violation involving a *Minor* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances*, shall result in lifetime *Ineligibility* for *Athlete Support Personnel*. In addition, significant violations of Article 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 10.3.3: 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 accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.*]

**10.3.4** For violations of Article 2.9, the period of *Ineligibility* imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

**10.3.5** For violations of Article 2.10, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case.

[*Comment to Article 10.3.5: Where the "other Person" referenced in Article 2.10 is an entity and not an individual, that entity may be disciplined as provided in Article 12.*]

#### **10.4 Elimination of the Period of *Ineligibility* where there is *No Fault or Negligence***

If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Fault or Negligence*, then the otherwise applicable period of *Ineligibility* shall be eliminated.

[*Comment to Article 10.4: This Article and Article 10.5.2 below 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 an Athlete 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*

*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 under Article 10.5 based on No Significant Fault or Negligence.]*

## **10.5 Reduction of the Period of *Ineligibility* based on *No Significant Fault or Negligence***

**10.5.1** Reduction of Sanctions for *Specified Substances* or *Contaminated Products* for Violations of Article 2.1, 2.2 or 2.6.

### **10.5.1.1 *Specified Substances***

Where the anti-doping rule violation involves a *Specified Substance*, and the *Athlete* 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 *Athlete's* or other *Person's* degree of *Fault*.

### **10.5.1.2 *Contaminated Products***

In cases where the *Athlete* or other *Person* can establish *No Significant Fault or Negligence* and that 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 *Athlete's* or other *Person's* degree of *Fault*.

*[Comment to Article 10.5.1.2: In assessing that Athlete's degree of Fault, it would, for example, be favorable for the Athlete if the Athlete had declared the product which was subsequently determined to be Contaminated on his or her Doping Control form.]*

**10.5.2** Application of *No Significant Fault or Negligence* beyond the Application of Article 10.5.1

If an *Athlete* or other *Person* establishes in an individual case where Article 10.5.1 is not applicable, that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in Article 10.6 below, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* 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 otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this Article may be no less than eight years.

[*Comment to Article 10.5.2: Article 10.5.2 may be applied to any anti-doping rule violation except those Articles where intent is an element of the anti-doping rule violation (e.g., Article 2.5, 2.7, 2.8 or 2.9) or an element of a particular sanction (e.g., Article 10.2.1) or a range of Ineligibility is already provided in an Article based on the Athlete or other Person's degree of Fault.*]

## **10.6 Elimination, Reduction, or Suspension of Period of *Ineligibility* or other *Consequences* for Reasons Other than *Fault***

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

**10.6.1.1** HKADC may, prior to a final appellate decision under Article 13 below or the expiration of the time to appeal, suspend a part of the period of *Ineligibility* imposed in an individual case in which it has results management authority where the *Athlete* or other *Person* has provided Substantial Assistance to an *Anti-Doping Organization*, criminal authority or professional disciplinary body which results in: (i) the *Anti-Doping Organization* discovering or bringing forward an anti-doping rule violation by another *Person*, or (ii) which results in a criminal or disciplinary body discovering or bringing forward a criminal offense or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing *Substantial Assistance* is made available to HKADC. After a final appellate decision under Article 13 or the expiration of time to appeal, the HKADC 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* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this Article must be no less than eight years. If the *Athlete* 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, HKADC shall reinstate the original period of *Ineligibility*. If HKADC decides to reinstate a suspended period of *Ineligibility* or decides not to reinstate a suspended period of *Ineligibility*, that

decision may be appealed by any *Person* entitled to appeal under Article 13.

**10.6.1.2** To further encourage *Athletes* and other *Persons* to provide *Substantial Assistance* to *Anti-Doping Organizations*, at the request of HKADC or at the request of the *Athlete* 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 Article 13, 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 suspensions of the period of *Ineligibility* and other *Consequences* for *Substantial Assistance* greater than those otherwise provided in this Article, 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 Article. Notwithstanding Article 13, WADA's decisions in the context of this Article may not be appealed by any other *Anti-Doping Organization*.

**10.6.1.3** If HKADC suspends any part of an otherwise applicable sanction because of *Substantial Assistance*, then notice providing justification for the decision shall be provided to the other *Anti-Doping Organizations* with a right to appeal under Article 13.2.3 as provided in Article 14.2 below. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorize HKADC to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the *Substantial Assistance* agreement or the nature of *Substantial Assistance* being provided.

*[Comment to Article 10.6.1: The cooperation of Athletes, Athlete Support Personnel 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 authorized.]*

**10.6.2 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.



*[Comment to Article 10.6.2: 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. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he/she not come forward voluntarily.]*

**10.6.3** Prompt admission of an anti-doping rule violation after being confronted with a violation sanctionable under Article 10.2.1 or Article 10.3.1

An *Athlete* or other *Person* potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing *Sample Collection* or *Tampering with Sample Collection*), by promptly admitting the asserted anti-doping rule violation after being confronted by HKADC, and also upon the approval and at the discretion of both WADA and HKADC, may receive a reduction in the period of *Ineligibility* down to a minimum of two years, depending on the seriousness of the violation and the *Athlete* or other *Person's* degree of *Fault*.

**10.6.4** Application of multiple grounds for reduction of a sanction

Where an *Athlete* or other *Person* establishes entitlement to reduction in sanction under more than one Provision of Article 10.4, 10.5 or 10.6, before applying any reductions or suspension under Article 10.6, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.5. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under Article 10.6, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

*[Comment to Article 10.6.4: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Articles 10.2, 10.3, 10.4 or 10.5) 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 Athlete 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 (Article 10.6). Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 10.11. Several examples of how Article 10 is to be applied are found in Appendix 2.]*

## **10.7 Multiple Violations**

**10.7.1** For an *Athlete* or other *Person's* second anti-doping rule violation, the period of *Ineligibility* shall be the greater of:

- (a) six months
- (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6; or
- (c) 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 Article 10.6.

The period of *Ineligibility* established above may then be further reduced by the application of Article 10.6.

**10.7.2** 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 10.5, or involves a violation of Article 2.4. In these particular cases, the period of *Ineligibility* shall be from eight years to lifetime *Ineligibility*.

**10.7.3** An anti-doping rule violation for which an *Athlete* or other *Person* has established *No Fault or Negligence* shall not be considered a violation for purposes of this Article.

### **10.7.4 Additional Rules for Certain Potential Multiple Violations**

**10.7.4.1** For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if HKADC can establish that the *Athlete* or other *Person* committed the second anti-doping rule violation after the *Athlete* or other *Person* received notice pursuant to Article 7, or after HKADC made reasonable efforts to give notice, of the first anti-doping rule violation. If HKADC 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.

**10.7.4.2** If, after the imposition of a sanction for a first anti-doping rule violation, HKADC discovers facts involving an anti-doping rule violation by the *Athlete* or other *Person* which occurred prior to notification regarding the first violation, then HKADC 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. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in Article 10.8.

#### **10.7.5 Multiple Anti-Doping Rule Violations during Ten-Year Period**

For purposes of Article 10.7, each anti-doping rule violation must take place within the same ten-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, all other competitive results of the *Athlete* 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.

*[Comment to Article 10.8: Nothing in these Anti-Doping Rules 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 Allocation of CAS Cost Awards and Forfeited Prize Money**

The priority for repayment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other *Athletes* if provided for in the rules of the applicable International Federation; and third, reimbursement of the expenses of HKADC.

#### **10.10 Financial Consequences**

**10.10.1** In addition to the sanctions provided for under Articles 10.1 to 10.8, *Athlete* or other *Person* who violated these anti-doping rules may be sanctioned with a fine of HK\$20,000.

**10.10.2** Financial sanction as specified in Article 10.10.1 could be waived if the *Athlete's* or other *Person's* period of *Ineligibility* is eliminated or reduced according to Article 10.4, Article 10.5 and/or Article 10.6.

**10.10.3** For the *Athlete* or other *Person* whose sport related financial support is partially or completely withheld after the violation of these anti-doping rules, the financial sanction as specified in Article 10.10.1 could be proportionally reduced in view of the loss of financial support.

*[Comment to Article 10.10: No financial sanction may be considered a basis for reducing the period of Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules.]*

## **10.11 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.

### **10.11.1 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*, HKADC 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. All competitive results achieved during the period of *Ineligibility*, including retroactive *Ineligibility*, shall be *Disqualified*.

*[Comment to Article 10.11.1: In cases of anti-doping rule violations other than under Article 2.1, the time required for an Anti-Doping Organization to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the Athlete or other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this Article to start the sanction at an earlier date should not be used.]*

### **10.11.2 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 HKADC, 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 of a hearing decision imposing a sanction or the date the sanction is otherwise imposed. This Article shall not apply where the period of *Ineligibility* already has been reduced under Article 10.6.3.

### **10.11.3 Credit for Provisional Suspension or Period of *Ineligibility* Served**

**10.11.3.1** If a *Provisional Suspension* is imposed and respected by the *Athlete* or other *Person*, then the *Athlete* 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 *Athlete* 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.

**10.11.3.2** If an *Athlete* or other *Person* voluntarily accepts a *Provisional Suspension* in writing from HKADC and thereafter respects the *Provisional Suspension*, the *Athlete* or other *Person* 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* or other *Person's* voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of asserted anti-doping rule violation under Article 14.1.

*[Comment to Article 10.11.3.2: 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.]*

**10.11.3.3** 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.

**10.11.3.4** In *Team Sports*, where a period of *Ineligibility* is imposed upon a team, unless fairness requires otherwise, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of team *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* to be served.

*[Comment to Article 10.11: Article 10.11 makes 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 final hearing decision.]*

## **10.12 Status During *Ineligibility***

### **10.12.1 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 SF&OC or any *National Federation* or a club or other member organization of SF&OC or any *National Federation*, or in *Competitions* authorized or organized by any professional league or any international or national level *Event* organization or any elite or national-level sporting activity funded by a governmental agency.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate as an *Athlete* in local sport events not sanctioned or otherwise under the jurisdiction of a Code Signatory or member of a Code Signatory, 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*, and does not involve the *Athlete* or other *Person* working in any capacity with *Minors*.

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

*[Comment to Article 10.12.1: For example, subject to Article 10.12.2 below, 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 or which is funded by a governmental agency. 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 10.12.3. The term "activity" also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organization described in this Article. Ineligibility imposed in one sport shall also be recognized by other sports (see Article 15.1, Mutual Recognition).]*

### **10.12.2** Return to Training

As an exception to Article 10.12.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organization of SF&OC's member organization during the shorter of: (1) the last two months of the *Athlete's* period of *Ineligibility*, or (2) the last one-quarter of the period of *Ineligibility* imposed.

*[Comment to Article 10.12.2: In many Team Sports and some individual sports (e.g., ski jumping and gymnastics), an Athlete cannot effectively train on his/her own so as to be ready to compete at the end of the Athlete's period of Ineligibility. During the training period described in this Article, an Ineligible Athlete may not compete or engage in any activity described in Article 10.12.1 other than training.]*

### **10.12.3** 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 10.12.1, 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 *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case. The determination of whether an *Athlete* or

other *Person* has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by HKADC. This decision may be appealed under Article 13.

Where an *Athlete Support Person* or other *Person* assists a *Person* in violating the prohibition against participation during *Ineligibility*, HKADC shall impose sanctions for a violation of Article 2.9 for such assistance.

#### **10.12.4** Withholding of Financial Support during *Ineligibility*.

In addition, for any anti-doping rule violation not involving a reduced sanction as described in Article 10.4 or 10.5, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by SF&OC, the Hong Kong Government, and the *National Federation*.

### **10.13 Automatic Publication of Sanction**

A mandatory part of each sanction shall include automatic publication, as provided in Article 14.3.

*[Comment to Article 10: 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, a standard period of Ineligibility has a much more significant effect on the Athlete than in sports where careers are traditionally much longer. 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 jurisdictional conflicts between International Federations and National Anti-Doping Organizations.]*

## **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 Olympic Games based on a lesser number of anti-doping rule violations during the period of the Games.]*

## **ARTICLE 12 SANCTIONS AND COSTS ASSESSED AGAINST NATIONAL FEDERATIONS**

**12.1** HKADC has the authority to recommend to the relevant public authorities to withhold some or all funding or other non-financial support to *National Federations* that are not in compliance with these Anti-Doping Rules.

**12.2** HKADC may elect to request SF&OC to take additional disciplinary action against *National Federations* with respect to recognition, the eligibility of its officials and *Athletes* to participate in International Events and fines based on the following:

**12.2.1** Four or more violations of these Anti-Doping Rules (other than violations involving Article 2.4) are committed by *Athletes* or other *Persons* affiliated with a *National Federation* within a 12-month period.

**12.2.2** More than one *Athlete* or other *Person* from a *National Federation* commits an *Anti-Doping Rule* violation during an *International Event*.

**12.2.3** A *National Federation* has failed to make diligent efforts to keep HKADC informed about an *Athlete's* whereabouts after receiving a request for that information from HKADC.

## **ARTICLE 13 APPEALS**

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

Decisions made under these Anti-Doping Rules may be appealed as set forth below in Articles 13.2 through 13.7 or as otherwise provided in these Anti-Doping Rules, the *Code* or the *International Standards*. 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 13.1.3).

#### **13.1.1** 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.

#### **13.1.2** CAS Shall Not Defer to the Findings Being Appealed

In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed.

*[Comment to Article 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]*

#### **13.1.3** 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 HKADC's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the HKADC's process.

*[Comment to Article 13.1.3: Where a decision has been rendered before the final stage of HKADC's process (for example, a first hearing) and no party elects to appeal that decision to the next level of HKADC's process, then WADA may bypass the remaining steps in HKADC's internal process and appeal directly to CAS.]*

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

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not 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 by WADA not to grant an exception to the six months notice requirement for a retired *Athlete* to return to *Competition* under Article 5.7.1; a decision by WADA assigning results management under Article 7.1 of the *Code*; a decision by HKADC 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 7.7; a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing*; HKADC's failure to comply with Article 7.9; a decision that HKADC 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* under Article 10.6.1; a decision under Article 10.12.3; and a decision by HKADC not

to recognize another *Anti-Doping Organization's* decision under Article 15, may be appealed exclusively as provided in Articles 13.2 – 13.7.

**13.2.1 Appeals Involving International-Level Athletes or International Events**

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to the CAS.

*[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.]*

**13.2.2 Appeals Involving Other Athletes or Other Persons**

In cases where Article 13.2.1 is not applicable, the decision may be appealed to the Hong Kong *Anti-Doping Appeal Panel*.

**13.2.2.1 Hearing before the Hong Kong Anti-Doping Appeal Panel**

**13.2.2.1.1** SF&OC shall appoint the independent Hong Kong Anti-Doping Appeal Panel consisting of a Chair, two Vice-Chairs, each of whom should be legal practitioners of not less than five years standing, and at least two other members. Each panel member shall serve a term of one year. If a panel member dies or resigns, SF&OC may appoint another person to the panel to fill the resultant vacancy. The person so appointed shall be appointed for the remainder of the term of the member he/she is replacing. A panel member may be re-appointed.

**13.2.2.1.2** The appointed members shall have had no prior involvement with any aspect of the case. In particular, no member may have previously considered any *TUE* application or appeal involving the same *Athlete* as in the current case. Each member, upon appointment, shall disclose to the Chair any circumstances likely to affect impartiality with respect to any of the parties.

**13.2.2.1.3** If a member, appointed by the Chair to hear a case is unwilling or unable, for whatever reason, to hear the case, the Chair may appoint a replacement or appoint a new hearing panel from the pool.

**13.2.2.1.4** The Hong Kong Anti-Doping Appeal Panel has the power, at its absolute discretion, to appoint an expert to assist or advise the panel as required by the panel.

**13.2.2.1.5** HKADC has the right to join proceedings and attend hearings of the Hong Kong Anti-Doping Appeal Panel as a party.

**13.2.2.1.6** The International Federation and/or the *National Federation* concerned, if not a party to the proceedings, the *National Olympic Committee*, if not a party to the proceedings, and *WADA* each have the right to attend hearings of the Hong Kong Anti-Doping Appeal Panel as an observer.

**13.2.2.1.7** Hearings pursuant to this Article should be completed expeditiously and in all cases within three months of the date of the decision of the Hong Kong Anti-Doping Disciplinary Panel, save where exceptional circumstances apply.

**13.2.2.1.8** Hearings held in connection with *Events* may be conducted on an expedited basis.

### **13.2.2.2 Proceedings of the Hong Kong Anti-Doping Appeal Panel**

**13.2.2.2.1** Subject to the provisions of these Anti-Doping Rules, the *Hong Kong Anti-Doping Appeal Panel* shall have the power to regulate its procedures.

**13.2.2.2.2** The appellant shall present his/her case and the respondent party or parties shall present his/her/their case(s) in reply.

**13.2.2.2.3** A failure by any party or his/her representative to attend a hearing after notification will be deemed to be an abandonment of his/her right to a hearing. This right may be reinstated on reasonable grounds.

**13.2.2.2.4** Each party shall have the right to be represented at a hearing, at that party's own expense.

**13.2.2.2.5** Every party shall have the right to an interpreter at the hearing, if deemed necessary by the hearing panel. The hearing panel shall determine the identity and responsibility for the cost of any interpreter.

**13.2.2.2.6** Each party to the proceedings has the right to present evidence, including the right to call and question witnesses (subject to the hearing *panel's* discretion to accept testimony by telephone or other means).

**13.2.2.2.7** Any failure by any party to comply with any requirement or direction of the Hong Kong Anti-Doping Appeal Panel shall not prevent the appeal panel from proceeding and such failure may be taken into consideration by the appeal panel when making its decision.

### **13.2.2.3 Decisions of the *Hong Kong Anti-Doping Appeal Panel***

**13.2.2.3.1** At the end of the hearing, or on a timely basis thereafter, the Hong Kong Anti-Doping Appeal Panel shall issue a written, dated and signed decision (either unanimously or by majority) that includes the full reasons for the decision and for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential sanction was not imposed.

**13.2.2.3.2** The decision shall be provided by HKADC to the *Athlete* or other *Person*, to his/her *National Federation*, and to *Anti-Doping Organizations* with a right to appeal under Article 13.2.3.

**13.2.2.3.3** The decision may be appealed as provided in Article 13.2.3 below. If no appeal is brought against the decision, then (a) if the decision is that an anti-doping rule violation was committed, the decision shall be *Publicly Disclosed* as provided in Article 14.3.2; but (b) if the decision is that no anti-doping rule violation was committed, then the decision shall only be *Publicly Disclosed* with the consent of the *Athlete* or other *Person* who is the subject of the decision. HKADC 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.

### **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) HKADC and (if different) 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 or 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 following parties, at a minimum, shall have the right to appeal: (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) relevant *International Federation*; (d) HKADC and (if different) the *National Anti-Doping Organization* of the *Person's* country of residence; (e) the International

Olympic Committee or 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 *National Olympic Committee*; (f) *WADA*.

For cases under Article 13.2.2, *WADA*, the International Olympic Committee, the International Paralympic Committee, and the relevant International Federation shall also have the right to appeal to *CAS* with respect to the decision of the national-level appeal 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.

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.

#### **13.2.4 Cross Appeals and other Subsequent Appeals Allowed**

Cross appeals and other subsequent appeals by any respondent named in cases brought to *CAS* under the *Code* are specifically permitted. Any party with a right to appeal under this Article 13 must file a cross appeal or subsequent appeal at the latest with the party's answer.

*[Comment to Article 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an Athlete the right to cross appeal when an Anti-Doping Organization appeals a decision after the Athlete's time for appeal has expired. This provision permits a full hearing for all parties.]*

### **13.3 Failure to Render a Timely Decision**

Where, in a particular case, *HKADC* 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 *HKADC* had rendered a decision finding no anti-doping rule violation. If the *CAS* hearing panel determines that an anti-doping rule violation was 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 *HKADC*.

*[Comment to Article 13.3: 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 HKADC to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with HKADC and give HKADC an opportunity to explain why it has not yet rendered a decision.]*

### **13.4 Appeals Relating to TUEs**

TUE decisions may be appealed exclusively as provided in Article 4.4.

### **13.5 Notification of Appeal Decisions**

Any *Anti-Doping Organization* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organizations* that would have been entitled to appeal under Article 13.2.3 as provided under Article 14.2.

### **13.6 Appeal from Decisions Pursuant to Article 12**

Decisions of HKADC pursuant to Article 12 may be appealed exclusively to CAS by the *National Federation*.

### **13.7 Time for Filing Appeals**

#### **13.7.1 Appeals to CAS**

The time to file an appeal to CAS shall be twenty-one days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to the decision being appealed:

- (a) Within fifteen days from notice of the decision, such party/ies shall have the right to request a copy of the case file from the body that issued the decision;
- (b) If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one days from receipt of the file to file an appeal to CAS.

The above notwithstanding, the filing deadline for an appeal filed by WADA shall be the later of:

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

#### **13.7.2 Appeals Under Article 13.2.2**

The time to file an appeal to the Hong Kong Anti-Doping Appeal Panel shall be twenty-one days from the date of receipt of the decision by the appealing party. However, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings having led to the decision subject to appeal:

- (a) Within fifteen days from notice of the decision, such party/ies shall have the right to request from the body having issued the decision a copy of the file on which such body relied;
- (b) If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one days from receipt

of the file to file an appeal to the Hong Kong Anti-Doping Appeal Panel.

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

(a) Twenty-one days after the last day on which any other party in the case could have appealed, or

(b) Twenty-one days after *WADA*'s receipt of the complete file relating to the decision.

## **ARTICLE 14 CONFIDENTIALITY AND REPORTING**

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

#### **14.1.1** Notice of Anti-Doping Rule Violations to *Athletes* and other *Persons*

Notice to *Athletes* or other *Persons* that an anti-doping rule violation is being asserted against them shall occur as provided under Articles 7 and 14 of these Anti-Doping Rules. Notice to an *Athlete* or other *Person* who is a member of a *National Federation* may be accomplished by delivery of the notice to the *National Federation*.

#### **14.1.2** Notice of Anti-Doping Rule Violations to International Federations and *WADA*

Notice of the assertion of an anti-doping rule violation to International Federations and *WADA* shall occur as provided under Articles 7 and 14 of these Anti-Doping Rules, simultaneously with the notice to the *Athlete* or other *Person*.

#### **14.1.3** Content of an Anti-Doping Rule Violation Notice

Notification of an anti-doping rule violation under Article 2.1 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, the analytical result reported by the laboratory, and other information as required by the *International Standard for Testing and Investigations*.

Notice of anti-doping rule violations other than under Article 2.1 shall include the rule violated and the basis of the asserted violation.

#### **14.1.4** Status Reports

Except with respect to investigations which have not resulted in notice of an anti-doping rule violation pursuant to Article 14.1.1, International Federations and *WADA* shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Articles 7, 8 or 13 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 the HKADC has made *Public Disclosure* or has failed to make *Public Disclosure* as required in Article 14.3 below.

**14.1.6** HKADC shall ensure that information concerning *Adverse Analytical Findings, Atypical Findings, and other asserted anti-doping rule violations* remains confidential until such information is *Publicly Disclosed* in accordance with Article 14.3, and shall include provisions in any contract entered into between HKADC and any of its employees (whether permanent or otherwise), contractors, agents and consultants, for the protection of such confidential information as well as for the investigation and disciplining of improper and/or unauthorised disclosure of such confidential information.

### **14.2 Notice of Anti-Doping Rule Violation Decisions and Request for Files**

**14.2.1** Anti-doping rule violation decisions rendered pursuant to Article 7.11, 8.3, 10.4, 10.5, 10.6, 10.12.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the greatest possible *Consequences* were not imposed. Where the decision is not in English or French, HKADC shall provide a short English or French summary of the decision and the supporting reasons.

**14.2.2** An *Anti-Doping Organization* having a right to appeal a decision received pursuant to Article 14.2.1 may, within fifteen days of receipt, request a copy of the full case file pertaining to the decision.

### **14.3 Public Disclosure**

**14.3.1** The identity of any *Athlete* or other *Person* who is asserted by HKADC to have committed an anti-doping rule violation, may be *Publicly Disclosed* by HKADC only after notice has been provided to the *Athlete* or other *Person* in accordance with Article 7.3, 7.4, 7.5, 7.6 or 7.7 and simultaneously to WADA and the International Federation of the *Athlete* or other *Person* in accordance with Article 14.1.2.

**14.3.2** No later than twenty days after it has been determined in a final appellate decision under Article 13.2.1 or 13.2.2, or such appeal has been waived, or a hearing in accordance with Article 8 has been waived, or the assertion of an anti-doping violation has not been timely challenged, HKADC must *Publicly Report* the disposition of the 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 (if any), and the *Consequences* imposed. HKADC must also *Publicly Report* within



twenty days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.

**14.3.3** 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 *Publicly Disclosed* only with the consent of the *Athlete* or other *Person* who is the subject of the decision. HKADC shall use reasonable efforts to obtain such consent. If consent is obtained, HKADC shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**14.3.4** Publication shall be accomplished at a minimum by placing the required information on HKADC'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*.

**14.3.5** Neither HKADC, nor the *National Federations*, 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 *Athlete* or other *Person* against whom an anti-doping rule violation is asserted, or their representatives.

**14.3.6** The mandatory *Public Reporting* required in Article 14.3.2 shall not be required where the *Athlete* 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.

#### **14.4 Statistical Reporting**

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

#### **14.5 Doping Control Information Clearinghouse**

To facilitate coordinated Test Distribution Planning and to avoid unnecessary duplication in *Testing* by the various *Anti-Doping Organizations*, HKADC shall report all *In-Competition* and *Out-of-Competition* tests on such *Athletes* to the WADA clearinghouse, using ADAMS, as soon as possible after such tests have been conducted. This information will be made accessible, where appropriate and in accordance with the applicable rules, to the *Athlete*, the *Athlete's* International Federation and any other *Anti-Doping Organizations* with *Testing* authority over the *Athlete*.

#### **14.6 Data Privacy**

**14.6.1** HKADC may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary

and appropriate to conduct their anti-doping activities under the *Code*, the *International Standards* (including specifically the *International Standard for the Protection of Privacy and Personal Information*) and these Anti-Doping Rules.

**14.6.2** Any *Participant* who submits information including personal data to any *Person* in accordance with these Anti-Doping Rules shall be deemed to have agreed, pursuant to applicable data protection laws and otherwise, that such information may be collected, processed, disclosed and used by such *Person* for the purposes of the implementation of these Anti-Doping Rules, in accordance with the *International Standard for the Protection of Privacy and Personal Information* and otherwise as required to implement these Anti-Doping Rules.

## **ARTICLE 15 APPLICATION AND RECOGNITION OF DECISIONS**

**15.1** Subject to the right to appeal provided in Article 13, *Testing*, hearing results or other final adjudications of any *Signatory* which are consistent with the *Code* and are within that *Signatory's* authority shall be applicable worldwide and shall be recognized and respected by HKADC and all *National Federations*.

*[Comment to Article 15.1: The extent of recognition of TUE decisions of other Anti-Doping Organizations shall be determined by Article 4.4 and the International Standard for Therapeutic Use Exemptions.]*

**15.2** HKADC and all *National Federations* shall recognize the measures taken by other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

*[Comment to Article 15.2: 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, HKADC or National Federations 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 these Anti-Doping Rules, then HKADC shall recognize the finding of an anti-doping rule violation and may conduct a hearing consistent with Article 8 to determine whether the longer period of Ineligibility provided in these Anti-Doping Rules should be imposed.]*

**15.3** Subject to the right to appeal provided in Article 13, any decision of HKADC regarding a violation of these Anti-Doping Rules shall be recognized by all *National Federations*, which shall take all necessary action to render such decision effective.

## **ARTICLE 16 INCORPORATION OF HKADC ANTI-DOPING RULES AND OBLIGATIONS OF NATIONAL FEDERATIONS**

**16.1** All *National Federations* and their members shall comply with these Anti-Doping Rules. These Anti-Doping Rules shall also be incorporated either directly or by reference into each *National Federation's* rules so that HKADC may enforce them itself directly as against *Athletes* and other *Persons* under the *National Federation's* jurisdiction.

**16.2** All *National Federations* shall 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 these Anti-Doping Rules and to submit the results management authority of the *Anti-Doping Organization* responsible under the Code as a condition of such participation.

**16.3** All *National Federations* shall report any information suggesting or relating to an anti-doping rule violation to HKADC and to their International Federation, and shall cooperate with investigations conducted by any *Anti-Doping Organization* with authority to conduct the investigation.

**16.4** All *National Federations* shall have disciplinary rules in place to prevent *Athlete Support Personnel* who are *Using Prohibited Substances* or *Prohibited Methods* without valid justification from providing support to *Athletes* under the jurisdiction of HKADC or the *National Federation*.

**16.5** All *National Federations* shall be required to conduct anti-doping education in coordination with HKADC.

## **ARTICLE 17 STATUTE OF LIMITATIONS**

No anti-doping rule violation proceeding may be commenced against an *Athlete* or other *Person* unless he or she has been notified of the anti-doping rule violation as provided in Article 7, or notification has been reasonably attempted, within ten years from the date the violation is asserted to have occurred.

## **ARTICLE 18 HKADC COMPLIANCE REPORTS TO WADA**

HKADC will report to *WADA* on HKADC's compliance with the *Code* in accordance with Article 23.5.2 of the *Code*.

## **ARTICLE 19 EDUCATION**

HKADC shall plan, implement, evaluate and monitor information, education and prevention programs for doping-free sport on at least the issues listed at Article 18.2 of the *Code*, and shall support active participation by *Athletes* and *Athlete Support Personnel* in such programs.

## **ARTICLE 20 AMENDMENT AND INTERPRETATION OF ANTI-DOPING RULES**

**20.1** These Anti-Doping Rules may be amended from time to time by HKADC.

**20.2** These Anti-Doping Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

**20.3** The headings used for the various parts and Articles of these Anti-Doping Rules are for convenience only and shall not be deemed part of the substance of these Anti-Doping Rules or to affect in any way the language of the provisions to which they refer.

**20.4** The *Code* and the *International Standards* shall be considered integral parts of these Anti-Doping Rules and shall prevail in case of conflict.

**20.5** These Anti-Doping Rules have been adopted pursuant to the applicable provisions of the *Code* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code*. The Introduction shall be considered an integral part of these Anti-Doping Rules.

**20.6** The comments annotating various provisions of the *Code* and these Anti-Doping Rules shall be used to interpret these Anti-Doping Rules.

**20.7** These Anti-Doping Rules have come into full force and effect on 1 January 2015 (the "Effective Date"). They shall not apply retroactively to matters pending before the Effective Date; provided, however, that:

**20.7.1** Anti-doping rule violations taking place prior to the Effective Date count as "first violations" or "second violations" for purposes of determining sanctions under Article 10 for violations taking place after the Effective Date.

**20.7.2** The retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.7.5 and the statute of limitations set forth in Article 17 are procedural rules and should be applied retroactively; provided, however, that Article 17 shall only be applied retroactively if the statute of limitation period has not already expired by the Effective Date. 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.

**20.7.3** Any Article 2.4 whereabouts failure (whether a Filing Failure or a Missed Test, as those terms are defined in the *International Standard for Testing and Investigations*) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standard for Testing and*

Investigation, but it shall be deemed to have expired 12 months after it occurred.

**20.7.4** 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 these Anti-Doping Rules. Such application must be made before the period of *Ineligibility* has expired. The decision rendered may be appealed pursuant to Article 13.2. These Anti-Doping Rules shall have no application to any case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

**20.7.5** For purposes of assessing the period of *Ineligibility* for a second violation under Article 10.7.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of *Ineligibility* which would have been assessed for that first violation had these Anti-Doping Rules been applicable, shall be applied.

## **ARTICLE 21 INTERPRETATION OF THE CODE**

**21.1** 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.

**21.2** The comments annotating various provisions of the *Code* shall be used to interpret the *Code*.

**21.3** 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.

**21.4** 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.

**21.5** The *Code* shall not apply retroactively 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.

**21.6** The Purpose, Scope and Organization of the World Anti-Doping Program and the *Code* and Appendix 1, Definitions and Appendix 2, Examples of the Application of Article 10, shall be considered integral parts of the *Code*.

## **ARTICLE 22 ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS**

### **22.1 Roles and Responsibilities of *Athletes***

**22.1.1** To be knowledgeable of and comply with these Anti-Doping Rules.

**22.1.2** To be available for *Sample* collection at all times.

*[Comment to Article 22.1.2: With due regard to an Athlete's human rights and privacy, legitimate anti-doping considerations sometimes require Sample collection late at night or early in the morning. For example, it is known that some Athletes use low doses of EPO during these hours so that it will be undetectable in the morning.]*

**22.1.3** To take responsibility, in the context of anti-doping, for what they ingest and *Use*.

**22.1.4** 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 these Anti-Doping Rules.

**22.1.5** To disclose to their International Federation and to HKADC any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten years.

**22.1.6** To cooperate with *Anti-Doping Organizations* investigating anti-doping rule violations.

### **22.2 Roles and Responsibilities of *Athlete Support Personnel***

**22.2.1** To be knowledgeable of and comply with these Anti-Doping Rules.

**22.2.2** To cooperate with the *Athlete Testing* program.

**22.2.3** To use his or her influence on *Athlete* values and behavior to foster anti-doping attitudes.

**22.2.4** To disclose to his or her International Federation and to HKADC any decision by a non-*Signatory* finding that he or she committed an anti-doping rule violation within the previous ten years.

**22.2.5** To cooperate with *Anti-Doping Organizations* investigating anti-doping rule violations.

**22.2.6** *Athlete Support Personnel* shall not *Use* or *Possess* any *Prohibited Substance* or *Prohibited Method* without valid justification.

## 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.

**Administration**: 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**: A report from a WADA-accredited laboratory or other WADA-approved laboratory 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**: A report identified as an *Adverse Passport Finding* as described in the applicable *International Standards*.

**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 competes in sport at the international level (as defined by each International Federation), or the national level (as defined by each *National Anti-Doping Organization*). An *Anti-Doping Organization* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of "Athlete." In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organization* may elect to: conduct limited *Testing* or no *Testing* at all; analyze *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if an Article 2.1, 2.3 or Article 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organization* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code*

(except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 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: This definition makes it clear that all International- and National-Level 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. The definition also allows each National Anti-Doping Organization, if it chooses to do so, to expand its anti-doping program beyond International- or National-Level Athletes to competitors at lower levels of Competition or to individuals who engage in fitness activities but do not compete at all. Thus, a National Anti-Doping Organization could, for example, elect to test recreational-level competitors but not require advance TUEs. But 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. In the same manner, a Major Event Organization holding an Event only for masters-level competitors could elect to test the competitors but not analyze Samples for the full menu of Prohibited Substances. Competitors at all levels of Competition should receive the benefit of anti-doping information and education.]*

*Athlete Biological Passport*: 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 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 WADA-accredited laboratory or other WADA-approved laboratory 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*: A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

*CAS*: The Court of Arbitration for Sport.



Code: The World Anti-Doping Code.

Competition: A single race, match, game or singular sport contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other sport 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 ("Consequences"): 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 on account of an anti-doping rule violation for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10.12.1; (c) Provisional Suspension means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* or activity prior to the final decision at a hearing conducted under Article 8; (d) 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 (e) 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 Article 14. *Teams* in *Team Sports* may also be subject to *Consequences* as provided in Article 11 of the *Code*.

Contaminated Product: A product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable Internet search.

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, *TUEs*, 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*.

Event Venues: Those venues so designated by the ruling body for the *Event*.

Fault: *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other

*Person's degree of Fault* include, for example, the *Athlete's* or other *Person's* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as impairment, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. 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 Article 10.5.1 or 10.5.2.

*[Comment: The criteria for assessing an Athlete's degree of Fault is the same under all Articles where Fault is to be considered. However, under Article 10.5.2, 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 Athlete or other Person was involved.]*

*Financial Consequences:* See *Consequences of Anti-Doping Rule Violations* above.

*In-Competition:* Unless provided otherwise in the rules of an International Federation or the ruling body of the *Event* in question, "*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*.

*[Comment: An International Federation or ruling body for an Event may establish an "In-Competition" period that is different than the Event Period.]*

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

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

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

*International Event:* An *Event* or *Competition* 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* who compete in sport at the international level, as defined by each International Federations, consistent with the *International Standard for Testing and Investigations*.

*[Comment: Consistent with the International Standard for Testing and Investigations, the International Federation is free to determine the criteria it will use to classify Athletes as International-Level Athletes, e.g., by ranking, by participation in particular International Events, by type of license, etc. However, it must publish those criteria in clear and concise form, so that Athletes are able to ascertain quickly and easily when they will become classified as International-Level Athletes. For example, if the criteria include participation in certain International Events, then the International Federation must publish a list of those International Events.]*

**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 variable(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 eighteen years.

**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 at the national level. If this designation has not been made by the competent public authority(ies), the entity must be the country's *National Olympic Committee* or its designee.

**National Event:** A sport *Event* or *Competition* involving *International-* or *National-Level Athletes* that is not an *International Event*.

**National Federation:** A national or regional entity which is a member of or is recognized by an International Federation as the entity governing the International Federation's sport in that nation or region.

**National-Level Athlete:** *Athletes* who compete in sport at the national level, as defined by each *National Anti-Doping Organization*, consistent with the *International Standard* for Testing and Investigations. In Hong Kong, *National-Level Athletes* are defined as set out in Article 1.4.

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 Fault or Negligence: The *Athlete* or other *Person'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* or otherwise violated anti-doping rule. Except in the case of a *Minor*, for any violation of Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

No Significant Fault or Negligence: The *Athlete* 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 Article 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

[*Comment: For Cannabinoids, an Athlete may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance.*]

Out-of-Competition: Any period which is not *In-Competition*.

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

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 or intends to exercise 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 *Possession* by explicitly declaring it to an *Anti-Doping Organization*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase.

*[Comment: 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. The act of purchasing a Prohibited Substance alone constitutes Possession, even where, for example, the product does not arrive, is received by someone else, or is sent to a third party address.]*

*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, or class of substances, so described on the *Prohibited List*.

*Provisional Hearing*: For purposes of Article 7.9, an expedited abbreviated hearing occurring prior to a hearing under Article 8 that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

*[Comment: A Provisional Hearing is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a Provisional Hearing, the Athlete remains entitled to a subsequent full hearing on the merits of the case. By contrast, an "expedited hearing," as that term is used in Article 7.9, is a full hearing on the merits conducted on an expedited time schedule.]*

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

*Publicly Disclose or Publicly Report*: See *Consequences of Anti-Doping Rule Violations* above.

*Regional Anti-Doping Organization*: A regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include the adoption and implementation of anti-doping rules, the planning and collection of *Samples*, the management of results, the review of *TUEs*, the conduct of hearings, and the conduct of educational programs at a regional level.

*Registered Testing Pool*: The pool of highest-priority *Athletes* established separately at the international level by International Federations and at the national level by *National Anti-Doping Organizations*, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or *National Anti-Doping Organization's* Test Distribution Plan and therefore are required to

provide whereabouts information as provided in Article 5.6 of the *Code* and the *International Standard for Testing and Investigations*.

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

[*Comment: 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*, as provided in Article 23 of the *Code*.

Specified Substance: See Article 4.2.2.

Strict Liability: The rule which provides that under Article 2.1 and Article 2.2, it is not necessary that intent, *Fault*, negligence, or knowing *Use* on the *Athlete's* part be demonstrated by the *Anti-Doping Organization* in order to establish an anti-doping rule violation.

Substantial Assistance: For purposes of Article 10.6.1, 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.

Target Testing: Selection of specific *Athletes* for *Testing* based on criteria set forth in the *International Standard for Testing and Investigations*.

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 (or Possessing for any such purpose) a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete*

*Support Person* 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 or are intended to enhance sport performance.

TUE: Therapeutic Use Exemption, as described in Article 4.4.

UNESCO Convention: The International Convention against Doping in Sport adopted by the 33<sup>rd</sup> session of the UNESCO General Conference on 19 October, 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.

[Comment: Defined terms shall include their plural and possessive forms, as well as those terms used as other parts of speech].

## APPENDIX 2 EXAMPLES OF THE APPLICATION OF ARTICLE 10

### EXAMPLE 1.

#### Facts:

An *Adverse Analytical Finding* results from the presence of an anabolic steroid in an *In-Competition* test (Article 2.1); the *Athlete* promptly admits the anti-doping rule violation; the *Athlete* establishes *No Significant Fault or Negligence*; and the *Athlete* provides *Substantial Assistance*.

#### Application of Consequences:

1. The starting point would be Article 10.2. Because the *Athlete* is deemed to have *No Significant Fault* that would be sufficient corroborating evidence (Articles 10.2.1.1 and 10.2.3) that the anti-doping rule violation was not intentional, the period of *Ineligibility* would thus be two years, not four years (Article 10.2.2).
2. In a second step, the panel would analyze whether the *Fault*-related reductions (Articles 10.4 and 10.5) apply. Based on *No Significant Fault or Negligence* (Article 10.5.2) since the anabolic steroid is not a *Specified Substance*, the applicable range of sanctions would be reduced to a range of two years to one year (minimum one-half of the two year sanction). The panel would then determine the applicable period of *Ineligibility* within this range based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of 16 months.)
3. In a third step, the panel would assess the possibility for suspension or reduction under Article 10.6 (reductions not related to *Fault*). In this case, only Article 10.6.1 (*Substantial Assistance*) applies. (Article 10.6.3, Prompt Admission, is not applicable because the period of *Ineligibility* is already below the two-year minimum set forth in Article 10.6.3.) Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 16 months.\* The minimum period of *Ineligibility* would thus be four months. (Assume for purposes of illustration in this example that the panel suspends ten months and the period of *Ineligibility* would thus be six months.)
4. Under Article 10.11, the period of *Ineligibility*, in principle, starts on the date of the final hearing decision. However, 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 (i.e., three months) after the date of the hearing decision (Article 10.11.2).



5. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would have to automatically *Disqualify* the result obtained in that *Competition* (Article 9).

6. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of the *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.

7. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

8. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2). Thus, the *Athlete* would be allowed to return to training one and one-half months before the end of the period of *Ineligibility*.

#### EXAMPLE 2.

##### Facts:

An *Adverse Analytical Finding* results from the presence of a stimulant which is a *Specified Substance* in an *In-Competition Test* (Article 2.1); the *Anti-Doping Organization* is able to establish that the *Athlete* committed the anti-doping rule violation intentionally; the *Athlete* is not able to establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance; the *Athlete* does not promptly admit the anti-doping rule violation as alleged; the *Athlete* does provide *Substantial Assistance*.

##### Application of Consequences:

1. The starting point would be Article 10.2. Because the *Anti-Doping Organization* can establish that the anti-doping rule violation was committed intentionally and the *Athlete* is unable to establish that the substance was permitted *Out-of-Competition* and the *Use* was unrelated to the *Athlete's* sport performance (Article 10.2.3), the period of *Ineligibility* would be four years (Article 10.2.1.2).

2. Because the violation was intentional, there is no room for a reduction based on *Fault* (no application of Articles 10.4 and 10.5). Based on *Substantial Assistance*, the sanction could be suspended by up to three-quarters of the four years.\* The minimum period of *Ineligibility* would thus be one year.

3. Under Article 10.11, the period of *Ineligibility* would start on the date of the final hearing decision.

4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically *Disqualify* the result obtained in the *Competition*.

5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.

6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

#### EXAMPLE 3.

##### Facts:

An *Adverse Analytical Finding* results from the presence of an anabolic steroid in an *Out-of-Competition* test (Article 2.1); the *Athlete* establishes *No Significant Fault or Negligence*; the *Athlete* also establishes that the *Adverse Analytical Finding* was caused by a *Contaminated Product*.

##### Application of Consequences:

1. The starting point would be Article 10.2. Because the *Athlete* can establish through corroborating evidence that he did not commit the anti-doping rule violation intentionally, i.e., he had *No Significant Fault* in using a *Contaminated Product* (Articles 10.2.1.1 and 10.2.3), the period of *Ineligibility* would be two years (Article 10.2.2).

2. In a second step, the panel would analyze the *Fault*-related possibilities for reductions (Articles 10.4 and 10.5). Since the *Athlete* can establish that the anti-doping rule violation was caused by a *Contaminated Product* and that he acted with *No Significant Fault or Negligence* based on Article 10.5.1.2, the applicable range for the period of *Ineligibility* would be reduced to a range of two years to a reprimand. The panel would determine the period of *Ineligibility* within this range, based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this

example that the panel would otherwise impose a period of *Ineligibility* of four months.)

3. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.

4. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

5. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a *team* or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2). Thus, the *Athlete* would be allowed to return to training one month before the end of the period of *Ineligibility*.

#### EXAMPLE 4.

##### Facts:

An *Athlete* who has never had an *Adverse Analytical Finding* or been confronted with an anti-doping rule violation spontaneously admits that she *Used* an anabolic steroid to enhance her performance. The *Athlete* also provides *Substantial Assistance*.

##### Application of Consequences:

1. Since the violation was intentional, Article 10.2.1 would be applicable and the basic period of *Ineligibility* imposed would be four years.

2. There is no room for *Fault*-related reductions of the period of *Ineligibility* (no application of Articles 10.4 and 10.5).

3. Based on the *Athlete's* spontaneous admission (Article 10.6.2) alone, the period of *Ineligibility* could be reduced by up to one-half of the four years. Based on the *Athlete's Substantial Assistance* (Article 10.6.1) alone, the period of *Ineligibility* could be suspended up to three-quarters of the four years.\* Under Article 10.6.4, in considering the spontaneous admission and *Substantial Assistance* together, the most the sanction could be reduced or suspended would be up to three-quarters of the four years. The minimum period of *Ineligibility* would be one year.

4. The period of *Ineligibility*, in principle, starts on the day of the final hearing decision (Article 10.11). If the spontaneous admission is factored into the

reduction of the period of *Ineligibility*, an early start of the period of *Ineligibility* under Article 10.11.2 would not be permitted. The provision seeks to prevent an *Athlete* from benefitting twice from the same set of circumstances. However, if the period of *Ineligibility* was suspended solely on the basis of *Substantial Assistance*, Article 10.11.2 may still be applied, and the period of *Ineligibility* started as early as the *Athlete's* last *Use* of the anabolic steroid.

5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of the anti-doping rule violation until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.

6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

#### EXAMPLE 5.

##### Facts:

An *Athlete Support Person* helps to circumvent a period of *Ineligibility* imposed on an *Athlete* by entering him into a *Competition* under a false name. The *Athlete Support Person* comes forward with this anti-doping rule violation (Article 2.9) spontaneously before being notified of an anti-doping rule violation by an *Anti-Doping Organization*.

##### Application of Consequences:

1. According to Article 10.3.4, the period of *Ineligibility* would be from two up to four years, depending on the seriousness of the violation. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of three years.)

2. There is no room for *Fault*-related reductions since intent is an element of the anti-doping rule violation in Article 2.9 (see comment to Article 10.5.2).

3. According to Article 10.6.2, provided that the admission is the only reliable evidence, the period of *Ineligibility* may be reduced down to one-half. (Assume for purposes of illustration in this example that the panel would impose a period of *Ineligibility* of 18 months.)

4. The information referred to in Article 14.3.2 must be *Publicly Disclosed* unless the *Athlete Support Personnel* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

#### EXAMPLE 6.

##### Facts:

An *Athlete* was sanctioned for a first anti-doping rule violation with a period of *Ineligibility* of 14 months, of which four months were suspended because of *Substantial Assistance*. Now, the *Athlete* commits a second anti-doping rule violation resulting from the presence of a stimulant which is not a *Specified Substance* in an *In-Competition* test (Article 2.1); the *Athlete* establishes *No Significant Fault or Negligence*; and the *Athlete* provided *Substantial Assistance*. If this were a first violation, the panel would sanction the *Athlete* with a period of *Ineligibility* of 16 months and suspend six months for *Substantial Assistance*.

##### Application of Consequences:

1. Article 10.7 is applicable to the second anti-doping rule violation because Article 10.7.4.1 and Article 10.7.5 apply.
2. Under Article 10.7.1, the period of *Ineligibility* would be the greater of:
  - (a) six months;
  - (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6 (in this example, that would equal one-half of 14 months, which is seven months); or
  - (c) 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 Article 10.6 (in this example, that would equal two times 16 months, which is 32 months).

Thus, the period of *Ineligibility* for the second violation would be the greater of (a), (b) and (c), which is a period of *Ineligibility* of 32 months.

3. In a next step, the panel would assess the possibility for suspension or reduction under Article 10.6 (non-*Fault*-related reductions). In the case of the second violation, only Article 10.6.1 (*Substantial Assistance*) applies. Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 32 months.\* The minimum period of *Ineligibility* would thus be eight months. (Assume for purposes of illustration in this example that the panel suspends eight months of the period of *Ineligibility* for *Substantial Assistance*, thus reducing the period of *Ineligibility* imposed to two years.)

4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically *Disqualify* the result obtained in the *Competition*.

5. According to Article 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.

6. The information referred to in Article 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (Article 10.13).

7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (Article 10.12.1). However, the *Athlete* may return to train with a team or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (Article 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*

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\* Upon the approval of *WADA* in exceptional circumstances, the maximum suspension of the period of *Ineligibility* for *Substantial Assistance* may be greater than three-quarters, and reporting and publication may be delayed.

## **APPENDIX 3      SPECIFIC PROTOCOL OF HKADC IN RELATION TO TESTING**

Criteria to be used to validate the identity of the *Athlete* when he/she is notified for *Testing*

The following **photo identifications** could be used to validate the identity of the *Athlete* during *Testing*

- Hong Kong ID Card
- Mainland Travel Permit for Hong Kong and Macau Residents (Home Return Permit)
- Passport and National ID Card
- Driver's Licence
- Athlete licence/Membership card issued by International Federation/National Federation
- Student/Staff card

In addition to the above, the following **photo identifications** could also be used during *In-Competition Testing*

- Accreditation/Athlete's Pass issued by the *Event* organizer of the concerned *Event*

When no photo identifications as specified above could be provided, a third party could be asked to help identify the *Athlete*. In this case, name and position of the third party must be provided in the Doping Control Form.

Circumstance in which delayed reporting to the Doping Control Station may be permitted

DCO may, at his/her discretion, grant permission for Athlete to delay reporting to the Doping Control Station, if the latter agreed to be continuously chaperoned and kept under direct observation during the delay.

For *Out-of-Competition Testing*:

- Locating a representative and/or interpreter
- Obtaining photo identification
- Receiving necessary medical treatment
- Completing a training session
- Any other exceptional circumstances which can be justified, and which shall be documented

*For In-Competition Testing:*

- Locating a representative and/or interpreter
- Obtaining photo identification
- Receiving necessary medical treatment
- Participating in a victory ceremony
- Fulfilment of media commitments
- Competing in further *Competitions*
- Performing a warm down
- Any other exceptional circumstances which can be justified, and which shall be documented

Who may be present during the *Sample* Collection Session

The following persons are allowed to be present:

- On duty Doping Control Officer(s)
- On duty Chaperon(s)
- Other Sample Collection Personnel on duty
- Athlete being tested
- Accompanying representative of the Athlete
- Interpreter
- Independent Observer from WADA or International Federations
- Representative from *Event* organizer at *In-Competition Testing*
- Representative from relevant International Federation

Criteria to be applied to ensure that each *Sample* collected is stored in a manner that protects integrity, identity and security prior to transport from the Doping Control Station

- DCO should never leave *Sample* unattended or to other unauthorized individuals.
- *Samples* collected should be stored in a lockable refrigerator/cabinet. Otherwise the Doping Control Room should be locked when the DCO has to leave the room.
- All *Samples* collected for *Doping Control* must be put in the designed lockable refrigerator at the HKADC Office within 24 hours.
- The *Samples* should be delivered to the HKADC Office together with a completed Chain of Custody Form.



Guidelines to be followed by the DCO in determining whether exceptional circumstances exist that mean a *Sample* Collection Session should be abandoned without collecting a *Sample* with a Suitable Specific Gravity for Analysis

An additional *Sample* should be collected if specific gravity of a *Sample* does not meet the minimal requirement. However, if the following exceptional circumstances occur, collection of further *Sample* could be abandoned.

- Specific gravity of the second *Sample* does not meet the minimum requirement. However, HKADC Office may provide instruction for particular test mission to override this criterion to allow further *Sample*(s) to be collected until minimal requirements for specific gravity is met.
- Condition of the Doping Control Station is no longer suitable for the purpose, in terms of privacy and/or safety, and alternative venue is not available.
- Any other exceptional circumstances which can be justified, and which shall be documented.