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ETHIOPIAN NATIONAL ANTI-DOPING OFFICE

RESULTS MANAGEMENT GUIDING PROCEDURE

Based on WADA Results Management, Hearings and Decisions Guidelines

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Acronyms and Abbreviations

AAF: - Adverse Analytical Finding

ABP: - Athlete Biological Passport

ADO: - Anti-Doping Organization

ADRV: - Anti-Doping Rule Violation

APFs: - Adverse Passport Findings

APMU: - Athlete Passport Management Unit

ATF: - Atypical Finding

ATPF: - Atypical Passport Findings

DCO: - Doping Control Officer

ETH-NADO:- Ethiopian National Anti-Doping Office

IFs: - International Federations

IOC: - International Olympic Committee

IPC:- International Paralympics Committee

IRMS: - Isotope Ratio Mass Spectrometry

ISL: - International Standard for Laboratories

ISPPPI: - International Standard for the Protection of Privacy and Personal Information

ISTI: - International Standard for testing and Investigations

ISTUE: - International Standard for Therapeutic Use Exemptions

MEO: - Major Events Organizers

NADO: - National Anti-Doping Organization

NOC: - National Olympic Committee

RMA: - Result Management Authority

TUE: - Therapeutic Use Exemptions

1. INTRODUCTION AND DEFINITION

1.1 Introduction

Ethiopian National Anti-Doping Office (ETH-NADO) is established by the Government of Ethiopia with the objective of acting as the independent National Anti-Doping Office guided by its mission to preserve the integrity of competition, inspire true sport and protect the rights of clean athletes. ETH-NADO is charged with implementing a comprehensive anti-doping program for all Olympic and Paralympics Sports, National Sport Governing Bodies, Events, their athletes, Support Personnel and other Persons.

As such, ETH-NADO 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 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 WADA in connection with investigations conducted by WADA pursuant to Article 20.7.10 of the Code; and
- Where funding is provided, withholding 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.

ETH-NADO is a signatory to the World Anti-Doping Code (Code), which is a framework of anti-doping policies, rules, and regulations within sport. The Code, along with the supporting International Standards, is maintained by the World Anti-Doping Organization (WADA) to ensure global harmonization of anti-doping rules.

ETH-NADO has already issued its Anti-Doping Rules in compliance with the Code. ETH-NADO further recognizes that efficient and effective Results Management is a key to the fight against doping in sport and this process must be conducted in accordance with the principles set out in the Code and the International Standards in conjunction with several key stakeholders and the World Anti-Doping Agency.

The term Results Management is not defined in the Code, but according to Article 7 of the Code, this process encompasses the time frame between pre-hearing administration of potential Anti-Doping rule violations (ADRVs), Laboratory analysis (or the collection of other evidence establishing a potential ADRV), notification and charge, through to resolution of the process.

Therefore, sections on the hearing phase, appeals and substantial assistance are also included in these Result Management Guiding Procedures in addition to the pre-hearing administration of potential Anti-Doping rule violations (ADRVs), Laboratory analysis or the collection of other evidences. Given the importance of issuing fully reasoned and comprehensive decisions in respect of the procedural rights and general principles of law, these procedures also include the hearing process and the resultant decision.

ETH-NADO believes that these Result Management Guiding Procedures will contribute a lot in providing additional guidance to follow more clear, fair, effective and efficient system in discharging the responsibilities of Results Management and hereby reaffirms its commitment for its implementation.

1.2 Definition

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.

Adaptive Model: A mathematical model that was designed to identify unusual longitudinal results from *Athletes*. The model calculates the probability of a longitudinal profile of *Marker* values assuming, that the *Athlete* has a normal physiological condition.

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*.

Analytical Testing: The parts of the *Doping Control* process involving *Sample* handling, analysis and reporting following receipt in the Laboratory.

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 Biological Passport (ABP): 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 Biological Passport Documentation Package: The material produced by the Laboratory and *Athlete Passport Management Unit* to support an *Adverse Passport Finding* such as, but not limited to, analytical data, Expert Panel comments, evidence of confounding factors as well as other relevant supporting information.

Athlete Passport Management Unit (APMU): A unit composed of a *Person* or *Persons*, designated by the *Anti-Doping Organization*, responsible for the administrative management of the *Passports* advising the *Anti-Doping Organization* for intelligent, *Targeted Testing* liaising with the Expert Panel compiling and authorizing an *Athlete Biological Passport Documentation Package* and reporting *Adverse Passport Findings*.

Athlete Representative: A person designated by the *Athlete* to assist with the verification of the *Sample* collection procedure, (not including the passing of the *Sample*). This person may be a member of the *Athlete's Support Personnel*, such as a coach or team doctor, a family member, or other. For *In-Competition Testing* the *Athlete Representative* must have the appropriate accreditation to access the *Doping Control Station*.

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*.

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 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*.

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 (ATF): 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 (APF): 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.

Chain of Custody: The sequence of individuals or organizations who have responsibility for the custody of a *Sample* from the provision of the *Sample* until the *Sample* has been delivered to the laboratory for analysis.

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.

Confirmation Procedure: An analytical test procedure whose purpose is to identify the presence or to measure the concentration/ratio of one or more specific *Prohibited Substances*, *Metabolite(s)* of a *Prohibited Substance*, or *Marker(s)* of the *Use* of a *Prohibited Substance* or *Method* in a *Sample*.

Consequences of Anti-Doping Rule 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.

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.

Decision Limit (DL): a concentration, accounting for the maximum permitted combined uncertainty, above which an *Adverse Analytical Finding* shall be reported.

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

Doping Control Officer (DCO): An official who has been trained and authorized by the *Sample Collection Authority* to carry out the responsibilities given to DCOs in the International Standard for Testing and Investigations.

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).

Expert Panel: The Experts, with knowledge in the concerned field, chosen by the *Anti-Doping Organization* and/or *Athlete Passport* Management Unit, who are responsible for providing an evaluation of the *Passport*. For the Haematological Module, Experts should have knowledge in one or more of the fields of clinical haematology (diagnosis of blood pathological conditions), sports medicine or exercise physiology. For the Steroidal Module, the Experts should have knowledge in Laboratory analysis, steroid doping and/or endocrinology. The Panel may include a pool of appointed Experts and any additional ad hoc Expert(s) who may be required upon request of any of the appointed Experts or by the *Athlete Passport* Management Unit of the *Anti-Doping Organization*.

Failure to Comply: A term used to describe anti-doping rule violations under *Code* Articles 2.3 and/or 2.5.

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.

Filing Failure: A failure by the *Athlete* (or by a third party to whom the *Athlete* has delegated the task) to make an accurate and complete Whereabouts Filing that enables the *Athlete* to be located for *Testing* at the times and locations set out in the Whereabouts Filing or to update that Whereabouts Filing where necessary to ensure that it remains accurate and complete, all in accordance with Article I.3 of the International Standard for Testing and Investigations.

In Competition: Unless provided 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*.

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

Initial Testing Procedure: An analytical test procedure whose purpose is to identify those Samples which may contain a *Prohibited Substance*, *Metabolite(s)* of a *Prohibited Substance*, or *Marker(s)* of the *Use* of a *Prohibited Substance* or *Prohibited Method* or the quantity of a *Prohibited Substance*, *Metabolite(s)* of a *Prohibited Substance*, or *Marker(s)* of the *Use* of a *Prohibited Substance* or *Prohibited Method*.

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 Standard (IS): 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*.

International Standard for Laboratories (ISL): The International Standard applicable to Laboratories as set forth herein.

International-Level Athlete: *Athletes* who compete in sport at the international level, as defined by each International Federation, consistent with the International Standard for Testing and Investigations.

Laboratory Documentation Packages: The material produced by the Laboratory to support an analytical result such as an *Adverse Analytical Finding* as set forth in the WADA Technical Document for Laboratory Documentation Packages.

Laboratory(ies): WADA-accredited laboratory(ies) applying test methods and processes to provide evidentiary data for the detection of *Prohibited Substances*, *Methods* or *Markers* on the *Prohibited List* and, if applicable, quantification of a Threshold Substance in *Samples* of urine and other biological matrices in the context of anti-doping activities.

Major Event Organizations (MEO): 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*.

Major Event: A series of individual international *Competitions* conducted together under an international multi-sport organization functioning as a ruling body (e.g., the Olympic Games, Pan American Games) and for which a significant increase of resources and capacity, as determined by WADA, is required to conduct *Doping Control* for the *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.

Missed Test: A failure by the *Athlete* to be available for *Testing* at the location and time specified in the 60-minute time slot identified in his/her Whereabouts Filing for the day in question, in accordance with Article I.4 of the International Standard for Testing and Investigations.

National Anti-Doping Organization (NADO): 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 shall be the country's *National Olympic Committee* or its designee.

National Olympic Committee (NOC): 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.

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.

No Advance Notice Testing: *Sample* collection that takes place with no advance warning to the *Athlete* and where the *Athlete* is continuously chaperoned from the moment of notification through *Sample* provision.

No Fault or Negligence: The *Athlete* 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 an 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.

Non-Analytical: The anti-doping rule violations set out in Article 2.2, Article 2.3, Article 2.4, Article 2.5, Article 2.6, Article 2.7, Article 2.8, Article 2.9 and Article 2.10 of the *Code*.

Out-of-Competition: Any period this is not In-Competition.

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

Passport Custodian: The *Anti-Doping Organization* responsible for result management of the *Athlete's Passport* and for sharing any relevant information associated to the *Athlete's Passport* with other *Anti-Doping Organization(s)*.

Passport: A collation of all relevant data unique to an individual *Athlete* that may include longitudinal profiles of *Markers*, heterogeneous factors unique to that particular *Athlete* and other relevant information that may help in the evaluation of *Markers*.

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

Personal Information: Information, including without limitation Sensitive Personal Information, relating to an identified or identifiable *Participant* or relating to other *Persons* whose information is Processed solely in the context of an *Anti-Doping Organization's* Anti-Doping Activities.

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

Presumptive Adverse Analytical Finding: The status of a *Sample* test result for which there is a suspicious result in the Initial *Testing Procedure*, but for which a confirmation test has not yet been performed.

Processing (and its cognates, Process and Processed): Collecting, retaining, storing, disclosing, transferring, transmitting, amending, deleting or otherwise making use of Personal Information.

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

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

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.

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

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

Regional Anti-Doping Organization (RADO): 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 (RTP): 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 and the International Standard for Testing and Investigations.

Results Management Authority (RMA): The organization that is responsible, in accordance with *Code* Article 7.1, for the management of the results of *Testing* (or other evidence of a potential anti-doping rule violation) and hearings, whether (1) an *Anti-Doping Organization* (for

example, the International Olympic Committee or other *Major Event Organization*, WADA, an International Federation, or a *National Anti-Doping Organization*); or (2) another organization acting pursuant to the authority of and in accordance with the rules of the *Anti-Doping Organization* (for example, a National Federation that is a member of an International Federation). In respect of Whereabouts Failures, the Results Management Authority shall be as set out in Article I.5.1.

Results Management: Pre-hearing administration of potential anti-doping rule violations.

Sample Collection Personnel: A collective term for qualified officials authorized by the *Sample Collection Authority* to carry out or assist with duties during the *Sample Collection Session*.

Sample Collection Session: All of the sequential activities that directly involve the *Athlete* from the point that initial contact is made until the *Athlete* leaves the *Doping Control Station* after having provided his/her *Sample(s)*.

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

Signatories: Those entities signing the *Code* and agreeing to comply with the *Code*, as provided in Article 23.

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 of the *Code*, 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.

Suitable Specific Gravity for Analysis: Specific gravity measured at 1.005 or higher with a refractometer, or 1.010 or higher with lab sticks.

Suitable Volume of Urine for Analysis: A minimum of 90 mL, whether the laboratory will be analysing the *Sample* for all or only some *Prohibited Substances* or *Prohibited Methods*.

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.

Testing Authority: The organization that has authorized a particular *Sample* collection, whether (1) an *Anti-Doping Organization* (for example, the International Olympic Committee or other *Major Event Organization*, WADA, an International Federation, or a *National Anti-Doping Organization*); or (2) another organization conducting *Testing* pursuant to the authority of and in accordance with the rules of the *Anti-Doping Organization* (for example, a National Federation that is a member of an International Federation).

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

Therapeutic Use Exemption Committee (TUEC): The ^{_____}panel established by an *Anti-Doping Organization* to consider applications for *TUEs*.

Therapeutic: Of or relating to the treatment of a medical condition by remedial agents or methods; or providing or assisting in a cure.

Third Party: Any natural *Person* or legal entity other than the natural *Person* to whom the relevant Personal Information relates, Anti-Doping Organizations and Third-Party Agents.

Threshold Substance: An exogenous or endogenous *Prohibited Substance*, *Metabolite* or *Marker* of a *Prohibited Substance* which is analyzed quantitatively and for which an analytical result (concentration, ratio or score) in excess of a pre-determined Decision Limit constitutes an *Adverse Analytical Finding*. Threshold Substances are identified as such in the Technical Document on Decision Limits (TD DL).

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.

Unsuccessful Attempt Report: A detailed report of an unsuccessful attempt to collect a *Sample* from an *Athlete* in a *Registered Testing Pool*, setting out the date of the attempt, the location visited, the exact arrival and departure times at the location, the steps taken at the location to try to find the *Athlete* (including details of any contact made with third parties), and any other relevant details about the attempt.

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.

WADA-Approved Laboratory for the ABP: Laboratory (ies) not otherwise accredited by WADA; applying test methods and processes in support of an *Athlete Biological Passport* program and in accordance with the criteria for approval of non-accredited laboratories for the *Athlete Biological Passport*.

Whereabouts Failure: A Filing Failure or a Missed Test.

Whereabouts Filing: Information provided by or on behalf of an *Athlete* in a *Registered Testing Pool* that sets out the *Athlete's* whereabouts during the following quarter, in accordance with Article I.3 of the International Standard for Testing and Investigations.

2 RESULTS MANAGEMENT AND ADJUDICATION PROCESS RESPONSIBILITIES

2.1 Overview

ETH-NADO is responsible for the results management and adjudication process for athletes in Ethiopia Olympic, Paralympic Sport, providing important independence and removing any potential conflicts of interest from the National Olympic Committee (NOC) of Ethiopia and sport national governing bodies. ETH-NADO communicates with athletes regarding test results and manages any potential anti-doping rule violations within its jurisdiction. The results management process is designed to protect the rights of clean athletes, preserve the integrity of competition and hold accountable those athletes looking to cheat through the use of dangerous, performance enhancing drugs, while ensuring only those athletes guilty of anti-doping rule violations (ADRV) face sanctions. ETH-NADO works to achieve a transparent and fair results management and adjudication process in accordance with the established rules, including Ethiopian anti-doping rule & the World Anti-Doping Code.

ETH-NADO results management and adjudication process is designed to balance the interest of clean athletes in not competing against another athlete or athletes facing an unresolved doping charge, with the opportunity for athletes and other persons who have been charged with an anti-doping rule violation to have an opportunity for a hearing prior to being declared ineligible to participate in sport. ETH-NADO's adjudication process is compliant with the World Anti-Doping Code, and the Ethiopian anti-doping rule.

ETH-NADO is required by the *Code* to vigorously pursue all potential Anti-Doping rule violations (ADRVs) within its jurisdiction.

When a case arises, the first issue to address is therefore jurisdiction, i.e. which *ADO* has Results Management Authority (RMA) for a case.

International Federations (IFs) and *National Anti-Doping Organizations (NADOs)* bear primary responsibility for Results Management. In certain situations, other parties also have Results Management-related responsibilities, e.g. *Major Event Organizations*

(*MEOs*) and *Regional Anti-Doping Organizations (RADOs)*. Some National Federations (NFs) may have responsibilities if an IF delegates the adjudication process responsibility to the *Athlete's* NF or other *Person* concerned.

In these guidelines, the party responsible for launching investigations and taking action on an ADRV is the (ETH-NADO).

Athletes, Athlete Support Personnel and other *Persons* must cooperate with *ETH-NADO* investigating ADRVs. This is particularly important in case of Non-Analytical ADRVs.

WADA shall monitor compliance with the *Code*, i.e. whether *ETH-NADO* conducts Results Management and hearings in a *Code*-compliant manner. WADA shall ensure that the mandatory provisions of the *Code* are duly implemented and respected, that cases are dealt with in a timely fashion to protect the rights of both the Anti-Doping Community and the *Athletes*. WADA has the right to appeal any decision if it believes that it is not compliant with the *Code*. This is essential in ensuring a harmonized application of the rules.

2.2 Responsible ETH-NADO

For *Adverse Analytical Findings (AAFs)*, the RMA is *ETH-NADO* if it initiated and directed the *Sample* Collection Session, namely the *Testing* Authority by default, unless another *ADO* has been specifically identified.

For Non-Analytical violations, the RMA will be ETH-NADO which *Athlete* or other *Person* first provides notice to an *Athlete* or other *Person* of an asserted ADRV.

2.3 Governing Rules

An Anti-Doping case will in most cases be governed by the ETH-NADO's Anti-Doping rules. If the RMA is *ETH-NADO*, this may mean that ETH-NADO will apply the Anti-Doping rules implemented by the Organization. In some cases, an International Federation (IF) acting as the RMA may delegate this authority to a National Federation (NF) or ETH-NADO, depending on the status of the *Participant* concerned. In such instances, the delegated body will act as the RMA, applying the IF's Anti-Doping rules.

2.4 Clarification on Specific Jurisdiction Issues

In cases where a *ETH-NADOs* rules do not give authority over an *Athlete* or other *Person* who is not a national, resident, license holder or member of a sport organization of that country, or where *ETH-NADO* declines to exercise such authority, the default RMA is the IF or a third party as directed by the IF rules.

2.4.1 Additional Testing

When *ETH-NADO* conducts additional *Testing* pursuant to the *Code*, it shall be considered as the RMA. However, if *ETH-NADO* only directs the Laboratory to perform additional types of analysis at its expense, the IF or the *MEO* retains jurisdiction over Results Management.

2.4.2 WADA-Conducted Testing

If a test is conducted by *WADA* on its own initiative or an ADRV is discovered by *WADA*, the RMA will be *ETH-NADO* if designated by *WADA*.

2.4.3 Major Events

For *AAFs* arising from *MEO* tests or other ADRVs discovered at *MEO Events*, *MEOs* shall have primary responsibility for conducting the Results Management and hearing processes for the purpose of determining whether or not the *Athlete* has committed an ADRV.

The Anti-Doping rules used by *MEOs* typically provide that the *Consequences* applied by the *MEO* in respect of such ADRV are limited to the exclusion from the *Event* and/or *Disqualification*.

MEOs are then required to promptly forward the matter to the relevant IF (including a copy of the *MEO* decision and all supporting documents). Should the *MEO* be a *Signatory* to the *Code*, the IF shall recognize the *MEO's* decision with respect to the ADRV and impose a period of *Ineligibility* in accordance with the *Code*.

2.4.4 Whereabouts Failures (Filing Failures or Missed Tests)

The RMA in relation to potential Whereabouts Failure will be the IF or *ETH-NADO* with whom the *Athlete* files his or her whereabouts information. *Athletes* that file their whereabouts with *ETH-NADO* shall not file with any other *ADO*, and *ETH-NADO* shall be responsible for the management of potential Filing Failures. Missed Tests

should be managed by ETH-NADO which has initiated the attempted test. It is important that ETH-NADO after recording a Whereabouts Failure submits this information to WADA via the Anti-Doping Administration and Management System ADAMS, so this information is available to other ADOs.

2.4.5 Results Management for *Athlete Passport* cases

Results Management for *Atypical Passport Findings* (ATPFs) or *Adverse Passport Findings* (APFs) shall be administered by the *Passport* Custodian, regardless of whether another ADO was the *Testing* Authority of the test(s) that ultimately prompted the ATPF or APF.

For *Athlete Biological Passport* (ABP) purposes, the *Passport* Custodian shall always inform WADA and ETH-NADO/IF (where applicable) of a decision to 1) bring a case forward, or 2) terminate the Results Management process.

In circumstances where an *Athlete* is tested by two or more ADOs in the context of the ABP, it's important that all ABP tests recorded by one ADO be visible/accessible to the other(s) via ADAMS to allow an overview of the *Athlete's Passport*.

2.4.6 Retired *Athlete*

Per the *Code*, if an *Athlete* or other *Person* retires while Results Management is underway, ETH-NADO retains jurisdiction until the process is finalized.

If an *Athlete* or other *Person* retires before any Results Management process has begun, the RMA is the ETH-NADO if it had jurisdiction at the time the ADRV was committed.

2.5 Disputes

If more than one ADO claims to have jurisdiction over a case, and discussion in good faith fails, WADA settles the dispute and decides which ADO manages the Results Management process. WADA's decision may be appealed to the Court of Arbitration for Sport (CAS) within 10 days from its notification

3. RESULTS MANAGEMENT: PRE-HEARING PHASE

3.1 Timeliness

In the interest of fair, effective sport justice, any asserted ADRV should be prosecuted in a timely manner. Irrespective of the type of ADRV involved, ETH-NADO should be

able to conclude Results Management and the hearing process within a maximum of 6 months of the date of commission or of discovery of the ADRV.

If ETH-NADO fails to render a decision within a reasonable deadline set by WADA, the Organization may elect to bring the case directly before the CAS. The CAS may decide that the costs of the proceedings and WADA's attorney fees shall be paid by ETH-NADO

3.2 Statute of Limitations

No ADRV proceedings can commence against an *Athlete* or other *Person* unless he/she was notified within 10 years from the date the ADRV is asserted to have occurred. If there is any doubt that the violation was committed within the 10-year period, ETH-NADO shall take reasonable steps to determine that the ADRV does fall within the limitation period before taking action.

3.3 Confidentiality

The Results Management phase is confidential. *ETH-NADO* is encouraged to strictly limit access to, and disclosure of, information collected or processed during this phase solely on a need-to-know basis. Premature breaches of confidentiality could have serious consequences and result in significant legal claims being made by the *Person(s)* affected.

3.4 Review of Adverse Analytical Findings

3.4.1 Reporting of A Sample results by the Laboratory

All AAFs shall be reported by the Laboratory via ADAMS within 10 working days of the *Sample's* receipt by *ETH-NADO*, the relevant IF and WADA.

The Laboratory's report must indicate the *Sample* code, the type of test (*In Competition* or *Out-of-Competition*), the sport, the date of the *Sample* Collection Session, the test results, and all other information set out in the ISL. ETH-NADO shall ensure that its ADAMS account is properly configured to receive AAF notifications.

The Laboratory reports and documents any abnormality observed at the time of the *Sample's* receipt that may adversely affect the *Sample's* integrity e.g. the seal on a *Sample* bottle appeared damaged, or a blood *Sample* has been transported outside of recommended temperature ranges.

The Laboratory then notifies ETH-NADO and seeks instructions regarding rejection or *Testing of Samples* for which irregularities are noted. If ETH-NADO decides not to proceed with the case, the *Sample* rejection is documented.

3.4.2 Initial review

Upon receipt of an *AAF*, ETH-NADO conducts an initial review before notifying the *Athlete*, as per the *Code*.

As an important very first step, ETH-NADO reviews the *Doping Control Officer's* (DCO's) report and verifies that the *Sample* code matches the number in the report and Chain of Custody documentation. This precaution validates that the *Sample* analyzed by the Laboratory was the *Sample* provided by the *Athlete*.

3.4.2.1 Therapeutic Use Exemption (*TUE*)

ETH-NADO shall ascertain whether a *TUE* exists in relation to the *Prohibited Substance* that has been detected in the *Athlete's Sample*. In most instances, this can be done by consulting the *Athlete's* records in *ADAMS*, although ETH-NADO should also contact another *ADO*, such as the IF or *NADO* that might have approved a *TUE* for the *Athlete*. However, if ETH-NADO is handling a case that involves an overseas *Athlete*, it makes sense to contact the *NADO* (or equivalent body) in the *Athlete's* home country.

If an applicable *TUE* exists on the *Athlete's* record, a further check should be done to ensure that the *Athlete* has complied with any relevant imposed restrictions (e.g. *TUE*-specified dosage levels). If it appears that the *TUE* is valid and any terms have been complied with, ETH-NADO will notify relevant parties that no further action will follow.

3.4.2.2. Glucocorticosteroids and Beta-2 Agonists

Glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes. Other routes of administration are authorized.

However, as Laboratories will report any glucocorticosteroids finding as an *AAF*, the RMA, should verify the route of administration used as part of its Initial Review before prosecuting a case as an *AAF*.

The RMA should first verify any relevant information appearing on the *Doping Control* form and, if required, contact the *Athlete* to enquire about the route of administration. This basic verification with the *Athlete* is recommended. If the route of administration indicated by the *Athlete* is authorized, the RMA should also verify with the Laboratory or other experts that the level detected in the *Sample* match the route and administration dosage indicated by the *Athlete*.

Beta-2 Agonists are prohibited except inhaled salbutamol, inhaled formoterol and salmeterol when taken by inhalation according to the manufacturer's recommended Therapeutic regimen. The *Presence* in urine of salbutamol or formoterol exceeding the limit indicated on the *Prohibited List*, is presumed not to be an intended Therapeutic *Use*, and shall be prosecuted as an AAF – unless the *Athlete* provides evidence, through a controlled pharmacokinetic study, that the abnormal result was the outcome of Therapeutic *Use* of the inhaled dose, up to the maximum indicated on the *Prohibited List*.

For these substances, some Laboratories report a Presumptive *Adverse Analytical Finding* to the *Testing Authority* and enquire if a Confirmation Procedure is required. The *Testing Authority*(or RMA, if a different *ADO*) then checks if a *TUE* has been granted, and/or contacts the *Athlete* to enquire about the route of administration (If a case involving glucocorticosteroids or a Beta-2 Agonist is closed by the RMA, WADA and the parties indicated in *Code* Article 14.1.4, are to be duly informed of the outcome and the reasons.

3.4.2.3. Apparent departure from the ISTI and/or ISL and related notification

One of the fundamental purposes of the ISTI and ISL is to establish processes and procedures that help ensure that an AAF is a genuine finding not open to question or doubt. Therefore, ETH-NADO must review if any apparent departure from the ISTI and/or the ISL could have caused the AAF.

WADA-accredited Laboratories are presumed to have conducted the *Sample* analysis and custodial procedure in accordance with the ISL.

Nevertheless, ETH-NADO should review the Analysis Result Record, any other information available, and the context of the result. If ETH-NADO considers it necessary, an ISL review can also include a review of the Laboratory Documentation Package (if available at that stage) the Laboratory prepares to support the *AAF*. The sole purpose of the review is to identify if a serious, obvious departure from the ISL could have resulted in the *AAF*.

Similarly, ETH-NADO must review relevant documentation, particularly the *Doping Control* form and any Supplemental Reports, to ensure that there have not been any apparent departures from the ISTI that could have caused the *AAF* or otherwise put its validity into serious question.

Examples of apparent departures that might require further investigation include:

- The absence of any signature by the *Athlete* or an *Athlete Representative* on the *Doping Control* form, or
- Indication in the documentation that a partial *Sample* appeared to have been left unsupervised and unsealed.

If ETH-NADO considers that the departure is not the cause of the *AAF*, the case will be prosecuted, but ETH-NADO may have to establish to a hearing panel that the departure did not undermine the *AAF*'s validity.

3.4.2.4. Notification if the case is not brought forward after the initial review

ETH-NADO will decline to bring the case forward as an *AAF* in the following situations:

1. There is a valid *TUE* in place consistent with the *Use* and dosage; or
2. There is a departure from an *IS* that likely caused the *AAF*.

If ETH-NADO decides not to bring the case forward after the initial review, it must notify the *Athlete*, the responsible IF and WADA without delay.

Given this decision may be appealed, the notification should contain a brief summary stating why the case hasn't proceeded.

For a departure, ETH-NADO shall also consider conducting additional *Athlete Testing*.

3.4.3 Athlete notification after the initial review and notification of the asserted ADRV (charge)

If no apparent departure from the ISL or ISTI is identified and no *TUE* exists for the *Prohibited Substance*, ETH-NADO must proceed as soon as possible.

ETH-NADO has two options at this stage:

- Notify the *Athlete* of the *AAF*. Request the *Athlete* provide an explanation for the *AAF*. Advise him/her that unless a satisfactory explanation is received (by a date set by the ETH-NADO), the *Athlete* will be provisionally suspended (if the substance at stake is *Non-Specified Substance*). Inform the *Athlete* he/she can request a B *Sample* analysis. Advise that *AAF* disciplinary proceedings will follow.

- Notify the *Athlete*, charging him/her with having committed an ADRV in the same communication. A number of *ADOs* choose to combine the *AAF* notification and the charge. This is for the relevant *ETH-NADO* to decide, and can often depend upon a case's particular circumstances. If the case relates to a *Non-Specified Substance*, the *Provisional Suspension* can be imposed at this stage. If ETH-NADO can contact an *Athlete* immediately, the option of a single communication is quicker and simpler.

This section takes the second approach. Whether the *Prohibited Substance* at stake is a *Specified Substance* or a *Non-Specified Substance* determines which ETH-NADO will use as it makes a difference concerning the imposition of a *Provisional Suspension*.

If ETH-NADO Adopts the approach of notifying and then sending the charge letter at a later stage (after the B *Sample* analysis for example), that is also acceptable under the *Code*.

The *AAF* letter of notification and charge should be sent as soon as possible, specifying:

- The *AAF*, clearly identifying the *Prohibited Substance(s)* reported by the Laboratory, in accordance with the *Prohibited List*;
- Assertion of an ADRV, based on the *Code*.
- The *Athlete's* right to provide a written explanation within a set deadline for the finding in his/her *Sample*;
- The *Athlete's* rights regarding the B *Sample* analysis:

- a. The right to request prompt analysis of the B *Sample* and all information concerning the B *Sample* analysis
 - b. The right to attend the B *Sample* opening/analysis or be represented;
 - c. The right to request the Laboratory Documentation Package from ETH-NADO. The Laboratory should normally provide these documents to ETH-NADO within 10 days of the request.
- *Provisional Suspension*:
 - a. If the *Prohibited Substance* at stake is a Non-Specified *Substance*, the letter should include notice of the imposition of a *Provisional Suspension* and indicate the process for challenging the Suspension.
 - b. If the substance at stake is a *Specified Substance*, the notification should either impose a *Provisional Suspension*, or offer the *Athlete* the opportunity to accept a *Provisional Suspension* pending the resolution of the matter. For cases ETH-NADO believes a period of *Ineligibility* is a likely outcome, it is recommended that a *Provisional Suspension* be imposed.
 - *Consequences* of the ADRV: At this point, ETH-NADO may also indicate the *Consequences* to be sought and offer the *Athlete* the opportunity to promptly admit the ADRV to benefit from *the Code* (Prompt Admission) or (Timely Admission), where applicable.
 - The *Athlete* should also be made aware of the possibility to provide *Substantial Assistance* and benefit from the *Code*
 - The charge letter should refer to the hearing process that will follow, and include copies of all relevant documents, including the AAF, the Laboratory Documentation Package (if available at that time) and the Doping Control form. If timing is an issue, the Laboratory Documentation Package can be supplied to the *Athlete* at a later date.

ETH-NADO, the IF and WADA shall be notified simultaneously.

3.4.4 B Sample analysis

3.4.4.1 Who can request the B Sample analysis?

Both the *Athlete* and ETH-NADO have the possibility to request the B *Sample* analysis. When notifying an *Athlete* after the initial review, ETH-NADO shall inform the *Athlete* of his/her right to request the analysis of the B *Sample*.

The *Athlete* must be clearly informed that if he/she fails to file such request within the stipulated time frames, the right to a B *Sample* analysis is waived. It is advisable to always seek a clear, expressly written confirmation or waiver directly from the *Athlete* as to his/her intentions regarding the B *Sample* analysis and not to leave this issue unclear or uncertain.

If the *Athlete* does not request the B *Sample* analysis or expressly waives his/her right to have the B *Sample* analysis, ETH-NADO may still request the analysis.

ETH-NADO can, at its discretion, charge a fee for the B *Sample* analysis. The fee should equal the actual cost to ETH-NADO and the Laboratory.

3.4.4.2 Where is the B Sample analysis performed?

The B *Sample* analysis is performed in the same Laboratory as the A *Sample*.

3.4.4.3 Timing and right to attend the B Sample opening and analysis

If the B *Sample* analysis is requested by the *Athlete* or ETH-NADO, the *Athlete* shall be informed of his/her right to attend the B *Sample* opening and analysis or be represented. Once the scheduled date, time and place for the B *Sample* analysis are confirmed with the Laboratory, the *Athlete* should be notified immediately to determine his/her respective availability.

Pursuant to the ISL, the B *Sample* analysis should occur as soon as possible, and no later than seven working days from the A *Sample* AAF notification to avoid potential degradation of the *Sample* and unnecessary delay of the proceedings.

While not mandatory, the aim of this seven day rule is to improve *Testing* efficiency.

Compliance with the time limit may not be practically possible in every instance, especially if the *Athlete* wishes to attend the analysis. However, any extensions beyond the seven day limit must be brief.

For that purpose, the ISL further stipulates that if the *Athlete* or the *Athlete's Representative* does not respond to the invitation, or continuously claims not to be available on the date of the opening despite reasonable attempts to accommodate their dates (e.g. visa needed), the analysis shall proceed. An independent witness will be appointed by the Laboratory to verify that the B *Sample* container shows no trace of *Tampering* and that the identifying numbers match those on the *Sample* collection document.

3.5 Review of Atypical Findings

3.5.1 Situations in which a Laboratory may report an *ATF*

An *ATF* is a report from a Laboratory or other WADA-Approved Laboratory for the ABP that requires further investigation by ETH-NADO prior to the determination of an ADRV. The report indicates that the Laboratory has identified certain factors in an *Athlete's Sample* that, while not constituting an ADRV, merit further investigation.

The precise nature of the investigation depends on the *Prohibited Substance* associated with the *ATF*.

As with an *AAF*, an initial review is required to determine if an applicable *TUE* has been granted or if any apparent departure from the ISTI or the ISL might have caused the *ATF*. If that review does not reveal an applicable *TUE* or a departure from the applicable *IS*, ETH-NADO conducts the required investigation. An *ATF* may be reported in the following situations:

- a. Inconclusive GC-C-IRMS: On occasions, when an isotope-ratio mass spectrometry (IRMS) analysis is applied as a Confirmation Procedure, the Laboratory may be unable to make a definitive conclusion on the endogenous or exogenous origin of the *Prohibited Substance* (endogenous anabolic androgenic steroids). The Laboratory then reports the IRMS finding as an *ATF*.
- b. 19-NA (nandrolone Metabolite): The Laboratory detects a level of 19-NA superior to a certain level in a *Sample* from a female *Athlete* using norethisterone (contraceptive).
- c. Human growth hormone (hGH): Per WADA's Guidelines for hGH isoform differential immunoassays, the Laboratory may report an *ATF* for hGH cases.

- d. Human Chorionic Gonnadotropin (hCG): The finding of hCG in the urine of a male Athlete at concentrations greater than a certain level may be an indicator of hCG Use for doping purposes. Due to certain factors, additional investigations may be necessary. For this reason, Laboratories occasionally report an ATF²⁴.
- e. Erythropoietin (EPO): As described in the Technical Document on Harmonization of Analysis and Reporting of Erythropoiesis Stimulating Agents (ESAs) by Electrophoretic Techniques (TD EPO), the *Sample* may be reported as an *ATF*.
- f. Boldenone: A Laboratory may report an *ATF* when the results of the IRMS analysis are inconclusive, and the concentrations are estimated below a certain level.
- g. Formestane: The aromatase inhibitor²⁵ formestane may be naturally found in urine *Samples* at low concentration and requires a similar Analytical Testing as an endogenous anabolic androgenic steroid. If the IRMS is inconclusive, the Laboratory may report an *ATF*.
- h. Other *Prohibited Substances* as notified by WADA from time to time.

3.5.2 Notifications

ETH-NADO will not provide notice of an *ATF* to the *Athlete* until the investigation is completed with the following exceptions:

- a. If the *ATF* concerns HCG, the *Athlete* is informed without delay, as the *ATF* may be connected with a serious health issue; or
- b. Analysis of the B *Sample* is required as part of the investigations.

In the following situations, ETH-NADO can identify an *Athlete* after first providing him/her notice of the *ATF*:

- ETH-NADO receives a request from *MEO* shortly before one of its *International Events* to disclose if any *Athlete* on the list provided by the *MEO* has a pending *ATF*.
- ETH-NADO receives a request from a sport organization responsible for meeting an imminent deadline to select team members for an *International Event*, to disclose if any *Athlete* on the list provided by the sport organization has a pending *ATF*.

Once the investigation is completed, if none of the above-listed exceptions applies, and ETH-NADO decides to bring the *ATF* forward as an ADRV, then the *Athlete* shall be notified as per an *AAF*.

3.6 Review of Athlete Biological Passport findings

ETH-NADO while building an *APF*-based case must consult and comply with this RM Policy.

Here's a high-level view of how an *ABP* works:

1. An *Athlete* will provide a number of blood and/or urine *Samples* over time.
2. These will be analyzed and the Laboratory, or other WADA-Approved Laboratory for the *ABP*, will measure the relevant steroidal (for urine *Samples*) or hematological (for blood *Samples*) variables and enter them into *ADAMS*.
3. The *Athlete's Passport* is updated as soon as the biological data (steroid or hematological profile) is matched in *ADAMS* with the *Doping Control* form, underscoring the importance of uploading the information on the *Doping Control* form into *ADAMS*.
4. The Adaptive Model is automatically applied to the *Athlete's Passport* to identify any *ATPFs* that warrant further attention and review.

The *Passport* process is managed by the *Athlete Passport* Management Unit (APMU), a dedicated team (or individual) located at a Laboratory or within ETH-NADO.

Following the 'one *Athlete* – one *Passport*' principle, *ETH-NADO* is encouraged to work cooperatively to ensure that *Testing* is coordinated appropriately with all biological profiles collated within the *Athlete's Passport* in *ADAMS*. Each *Athlete* should have a *Passport* Custodian to ensure that all *ADOs* with *Testing* jurisdiction over the *Athlete* do not work in isolation.

The *Passport* Custodian is responsible for:

- Sharing *Passport* information with other *ADOs*, as appropriate and in accordance with the ISPPPI, and
- Initiating the Results Management procedure.

Preferably, an agreement providing a framework for collaboration in the sharing of *Passports* and related Results Management procedure is ratified by the *ADOs* in advance.

3.6.1 Hematological *Passport*

When an *ATPF* has been identified in a hematological *Passport* the APMU is required to send the profile and any other relevant information or documentation to an independent expert appointed by ETH-NADO.

The expert will examine the *Passport*, and draw his or her conclusions. The submission of the profile to the expert shall be done in a timely manner and be dealt with anonymously.

The actions that follow the expert's examination of the *Passport* depend on his/her conclusions:

1. If the expert considers the *Passport* normal, he/she will provide advice on appropriate follow up.
2. If the expert considers it highly likely that the *Passport* is due to a pathological condition, ETH-NADO immediately informs the *Athlete*.
3. If the expert considers it is highly likely that the *Passport* is the result of doping practices, further Results Management will be conducted.

3.6.2 Steroidal *Passport* (urine)

When a *Doping Control* form is entered into *ADAMS* and matched with Laboratory results, the *Passport* is automatically updated and processed by *ADAMS'* Adaptive Model. *ATPFs* are declared based on the results of the Adaptive Model, and *ADAMS* will automatically request the Laboratory to proceed with a Confirmation Procedure that includes a GC-C-IRMS analysis.

If the *ATPF* is confirmed by a GC-C-IRMS analysis, an *AAF* will be reported by the Laboratory and ETH-NADO becomes responsible for Results Management. If the IRMS Confirmation Procedure results are inconclusive, the APMU must send the steroidal *Passport* to an Expert for review. This could lead to the assertion of an ADRV or a recommendation to conduct further *Target Testing* on the *Athlete*.

Conversely, if the steroid profile of the *Sample* cannot be added to the *Athlete's* steroidal *Passport* in *ADAMS* within fourteen days of receipt of the *Sample* by the Laboratory, the profile in question will be verified against population-based values.

If the profile is flagged as atypical, the Laboratory will receive an automatic “Suspicious Profile Confirmation Procedure Request” notification through *ADAMS*. The Laboratory will then proceed with the Confirmation Procedure(s) unless, after contacting ETH-NADO, the latter can justify within seven calendar days that the Confirmation Procedure is not necessary. The Laboratory will report an *ATF* if the Confirmation Procedure results are inconclusive. If the GC-C-IRMS is positive, Results Management is to be conducted.

3.6.3 Results Management for *Passports*

If the initial expert review finds the *ATPF* is consistent with doping, the *Passport* must then be reviewed by two additional experts:

1. If all three experts do not agree that the *ATPF* is consistent with doping, the APMU may request additional information (e.g. whereabouts, medical information) or recommend the *Passport* Custodian pursue additional *Testing*.
2. If the experts unanimously agree that the *ATPF* is consistent with doping, the APMU compiles an *ABP* Documentation Package.
3. The *ABP* Documentation Package is then sent to the same three-member Expert Panel to review the information and provide a joint evaluation to be added to the *ABP* Documentation Package. If the Panel confirms their prior position, the APMU declares an *APF*.
4. ETH-NADO/*Passport* Custodian is then responsible for:
 - a. Advising the *Athlete* and WADA that ETH-NADO is considering charging the *Athlete* with an ADRV.
 - b. Inviting the *Athlete* to provide his/her own explanations in a timely manner on his/her *ATPF*.
 - c. Providing the *Athlete* and WADA the *ABP* Documentation Package.

Upon receipt of the *Athlete's* explanations and supporting documentation, the Expert Panel reviews the evidence and reassesses/reasserts its prior opinion, which includes one of the following conclusions:

d. A unanimous opinion that the *Athlete* likely used a *Prohibited Substance* or *Prohibited Method*: ETH-NADO proceeds with the Results Management and notifies the *Athlete* of the asserted ADRV.

e. No unanimous opinion: The Expert Panel may/may not recommend *Target Testing* or further investigations.

The experts' opinion is binding for ETH-NADO which consulted them. However, once further tests are conducted on the *Athlete*, the entire profile may be reviewed again.

3.7 Review of Whereabouts Failures and Whereabouts Violations

Results Management is to be conducted following each reported potential Missed Test or Filing Failure. Further, given that a combination of three Missed Tests and/or Filing Failures within a twelve months period by an *Athlete* in a *Registered Testing Pool (RTP)* constitutes an ADRV, Results Management shall also be conducted to ensure that an appropriate decision is rendered.

The RMA is the IF or the *NADO* with whom the *Athlete* files his/her whereabouts information. If an *Athlete* is included in IF and *NADO RTPs*, the *ADOs* must agree to whom the *Athlete* should provide his/her whereabouts information.

If the respective *ADOs* cannot come to an agreement, *WADA* decides based on the *Athlete's* best interests. *WADA's* decision is final.

For Filing Failures, the Results Management responsibility falls to ETH-NADO if an *Athlete* files his/her whereabouts information with ETH-NADO.

For Missed Tests, the RMA is *ETH-NADO* if it has authorized/ordered the test.

When three Whereabouts Failures are recorded against an *Athlete* within a twelve month period, ETH-NADO notifies the *Athlete* and the *ADOs* mentioned in without delay, and bring proceedings against the *Athlete* for a Whereabouts Violation.

If ETH-NADO fails to bring proceedings against an *Athlete* within thirty days of *WADA* receiving notice of the three Whereabouts Failures, ETH-NADO is deemed to have decided that no ADRV was committed for purposes of triggering the appeal rights set out in the *Code*.

3.8 Review of Other Anti-Doping Rule Violations

3.8.1 Investigation and collection of evidence

When ETH-NADO becomes aware of a potential ADRV (other than an *AAF*, an *ATF*, a *Whereabouts Violation* or *ATPF*), it should conduct any appropriate follow-up investigation without unnecessary delay and notify WADA, in accordance with the *Code*

Other potential ADRVs include: *Use or Attempted Use*, *Refusal*, *Failure to Comply to Sample collection*, *Evading*, *Tampering* or *Attempted Tampering*, *Possession*, *Trafficking* or *Attempted Trafficking*, *Complicity*, and *Prohibited Association*.

ETH-NADO should do everything in its power to ensure it can capture or receive evidence of ADRVs. It is important that *ETH-NADO* gathers as much information as possible in the form of admissible and reliable evidence, to ensure that a reasoned decision can be made by a hearing panel. Any investigation or evidence gathering should be conducted confidentially, fairly and effectively.

As stipulated in the *Code*, facts related to ADRVs may be established by any reliable means. The above-listed Non-Analytical Violations may be established by the following evidence, from all available sources: *Athlete* or other *Person's* admission, credible testimony of third *Persons*, reliable documentary evidence (e.g. picture, video, other documents), reports (DCO, police, other regulatory and disciplinary bodies), and other analytical data/information. (This list is obviously non exhaustive.)

The reporting/recording of facts, events or incidents that could constitute an ADRV shall be made by the witnesses as soon as possible after they occur. Any contemporaneous record or information may prove extremely useful to support an ADRV (e.g. telephone records, photos, third person statement, and other testimony).

3.8.1.1 Investigating a possible Failure to Comply (Evading, Refusal, Failure to submit to *Sample collection* or *Tampering*)

There is a key difference between a) Failure to submit to *Sample collection*, b) Refusal cases and c) Evasion cases. For the first 2 ADRVs, the *Athlete* must have been notified, whereas the latter requires the *Athlete* to have avoided being notified.

For Failure to submit to *Sample* collection and Refusal cases, the issue of whether or not there was a potential ADRV largely depends on the *Doping Control* Documentation and the witness evidence of the relevant *Doping Control* Personnel.

ETH-NADO will need to review the *Doping Control* Documentation to ensure that the *Athlete* was properly notified, understood the implications of being notified and, in particular, was clearly advised of the potential implications of not providing a *Sample*.

It is good practice to get the *Athlete's* explanation as to why he/she refused to provide a *Sample*, or failed to comply with such a request. If necessary, any follow up investigations should be conducted and completed before disciplinary proceedings begin.

For example, if an *Athlete* provides an explanation as to why he/she had to terminate the *Sample* Collection Session before a *Sample* was collected, that explanation should be investigated by ETH-NADO to ascertain if it might constitute a “compelling justification” for not providing a *Sample*.

For Evasion cases, ETH-NADO should review the *Doping Control* Documentation carefully and interview as many *Persons* as possible who were present at the time of the alleged Evasion.

Evasion is an offence that requires proof of the *Athlete's* state of mind, which can be inferred by factual evidence.

For example, if a DCO reports to *ETH-NADO* that he/she notified a group of *Athletes* that they were to be in a draw to select individuals to provide a *Sample*, and subsequently, one *Athlete* absented himself/herself without telling anyone, the facts can be used as evidence that the *Athlete* was Evading notification.

Again, it is good practice to get the *Athlete's* explanation of why he/she refused to provide a *Sample*, or failed to comply with such a request, and, if necessary, conduct and complete any follow-up investigations before disciplinary proceedings commence.

In both Failure to Comply and Refusal cases, ETH-NADO should investigate the matter promptly, and, in particular, interview the relevant DCO as soon as he/she is available. ETH-NADO should ensure that the relevant DCO is available to provide evidence at any hearing.

3.8.1.2 Prohibited Association

When ETH-NADO becomes aware of a potential case of Prohibited Association, the following steps should be taken:

1. ETH-NADO advises the *Athlete* or other *Person* in writing of the disqualifying status of the *Athlete Support Personnel*.
2. ETH-NADO ensures that the *Athlete* or other *Person* is provided the opportunity to explain why he/she can't reasonably avoid the association.
3. ETH-NADO ensures that the *Athlete* or other *Person* is provided with the opportunity to explain why the relevant *Athlete Support Personnel* is not disqualified.

ETH-NADO may wish to provide a means by which any issues arising from the 2nd and 3rd bullet points above are resolved as preliminary matters before any ADRV proceedings begin.

If the Prohibited Association continues despite the warning addressed to the *Athlete* or other *Person* (and resolution of any preliminary issue), proceedings shall be instigated.

3.8.2 Notifications

Based on the results of its investigation, if ETH-NADO concludes that proceedings should be brought against an *Athlete* or other *Person* asserting the commission of an ADRV, it gives notice of that decision in accordance with the *Code*.

Prior to notifying the *Athlete* or other *Person* of the asserted ADRV, the RMA determines if a prior ADRV exists. ETH-NADO may consult *ADAMS* and other relevant *ADOs* to determine if the ADRV at stake is the first one committed by the *Athlete* or other *Person*. This is important, given that the *Consequences* set forth by the *Code* are very different depending on the existence of a previous ADRV.

The first notification of an ADRV must identify the ADRV in question and clearly describe the sequence of events, facts or data, and all supporting documents that led ETH-NADO to initiate an investigation into a potential ADRV. For an *AAF*, the *Athlete* must be given the opportunity to provide a written explanation before formal charges are brought against him/her (2nd notification).

Based on the results of its investigation, if ETH-NADO concludes that proceedings should not be brought against the *Athlete* or other *Person*, it notifies WADA and the *Athlete* or other *Person's* IF and NADO in writing in accordance with the *Code*. In practice, this should take place on the basis that there are Information Sharing protocols in place between the relevant parties, to protect the *Athlete* or other *Person's* rights as much as possible. Information Sharing should ensure that all possible avenues of investigation and further action have been exhausted.

4. PROVISIONAL SUSPENSIONS

Provisional Suspension is a conservative measure imposed by a RMA upon an *Athlete* or *Athlete Support Personnel* after that *Person* has been notified or charged with an ADRV supported by sound, reliable evidence. Under *Provisional Suspension* the *Person* suspended is “barred temporarily from participating in any *Competition* or activity” prior to the final resolution of the ADRV issue.

Provisional Suspension protects the integrity of *Competition*, and strikes a balance between the rights of an individual *Athlete* or *Athlete Support Personnel* and the rights of others involved in sport. *Provisional Suspension* is mandatory in certain situations; in others, it is discretionary.

There are no formalities regarding the imposition of *Provisional Suspension*. The mechanics for doing so should be set out in the ETH-NADO's Anti-Doping rules and/or in the processes Adopted by ETH-NADO. Usually, a simple notification of suspension contained within the notification or charge communication is sufficient. Implementation of the suspension depends on the facts of a particular case and the sport involved.

4.1 Mandatory Provisional Suspension

If an *Athlete* is notified of an AAF related to a *Non-Specified Substance*, a *Provisional Suspension* must be imposed, with one exception: the AAF results from the *Use* of a *Contaminated Product*. Technically, the *Code* requires that a *Provisional Suspension* be imposed and the *Athlete* then apply to have it lifted, based on the assertion that the AAF results from the *Use* of a *Contaminated Product*.

The *Athlete* must be given the opportunity to challenge the imposition of the *Provisional Suspension* in a *Provisional Hearing*.

As stipulated in the *Code*, if the subsequent B *Sample* analysis doesn't confirm the A *Sample* analysis, the *Athlete* should not be subject to any further *Provisional Suspension*.

4.2 Discretionary Provisional Suspension

At its discretion, *ETH-NADO* may Adopt rules that provide for the imposition of a *Provisional Suspension* for any ADRV other than those related to an AAF of a *Non Specified Substance*. The *Athlete* or *Athlete Support Personnel* must have an opportunity to challenge the imposition of the *Provisional Suspension* in a *Provisional Hearing*.

Whether or not to impose a *Provisional Suspension* is a matter for *ETH-NADO* to decide, taking into account all the facts and evidence. *ETH-NADO* should keep in mind that if an *Athlete* continues to compete after being notified and/or charged in respect of an ADRV, and is subsequently found to have committed an ADRV, any results, prizes and titles achieved and awarded in that timeframe may be subject to *Disqualification* and forfeited. Given the potentially disruptive effect on sport and other *Athletes*, it is recommended that *ETH-NADO* imposes a *Provisional Suspension*.

4.3 Provisional Suspensions and Contaminated Products

If an *Athlete* can demonstrate that the ADRV is likely to have involved a *Contaminated Product*, a mandatory *Provisional Suspension* may be lifted.

Consequences are potentially more lenient if contamination is established as the explanation for an AAF. The intent is to avoid having an *Athlete* subject to a *Provisional Suspension* during the proceedings, then be suspended for a period that is shorter than the length of the proceedings themselves.

The *Athlete* has the burden of proof, but at this stage (the question of *Provisional Suspension*), the standard of proof is low. The *Athlete* only needs to show that this origin is “likely.”

This explanation in itself does not mean that a *Provisional Suspension* must be lifted. If shown to be the case, a hearing panel “may” eliminate the *Provisional Suspension*.

There may be good reasons why a *Provisional Suspension* shouldn't be lifted, e.g. the *Athlete* retains the benefit accrued from the *Use* of the relevant *Prohibited Substance*.

When notified of his/her *Provisional Suspension* by ETH-NADO, the *Athlete* should be informed that he/she can submit evidence that this positive test result is the *Consequence* of the intake of a *Contaminated Product*, and therefore avoid the imposition of a *Provisional Suspension*.

Although a *Provisional Suspension* is mandatory in AAF/ADRV matters involving *Non-Specified Substances*, if ETH-NADO is satisfied that (a) the *Athlete's* explanation regarding the *Use* of a *Contaminated Product* is credible, and (b) no unfairness to other *Athletes* will result from the *Athlete* being permitted to compete, ETH-NADO's decision not to impose a *Provisional Suspension* is not contrary to the *Code*.

In practice, this means that:

- a. If ETH-NADO is aware that the AAF may be connected to the *Use* of a *Contaminated Product*, then it may decline to impose a *Provisional Suspension*.
- b. If an *Athlete* is notified by ETH-NADO in relation of an AAF in respect of a *Non Specified Substance*, and the *Athlete* believes that the AAF may be connected to the *Use* of a *Contaminated Product*, then he/she can request that ETH-NADO lifts the *Provisional Suspension*. ETH-NADO can either agree to the request, or have the issue resolved at a hearing.

4.4 Voluntary Suspension

An *Athlete* (or other *Person*) can voluntarily accept a *Provisional Suspension* from ETH-NADO, with any period covered by the suspension credited against any period of *Ineligibility* later imposed.

In practice, this will arise if ETH-NADO declines to impose a Discretionary *Provisional Suspension*. An *Athlete* (or other *Person*) may elect to accept a *Provisional Suspension* if, for example, he/she accepts that an ADRV may have been committed, but disputes the charge and/or the *Consequences*. ETH-NADO may require notice of any such *Provisional Suspension* be communicated in writing.

If the *Athlete* alleged to have committed a Whereabouts Violation, intends to dispute the charge and the length of any ban, it makes sense for the *Athlete* to accept a suspension so that any period of *Ineligibility* would start at an early stage in the proceedings.

The *Code* expressly says that no inference should be drawn from an *Athlete* taking this action, and, in particular, his/her acceptance should not be regarded an admission of guilt. An *Athlete* can disapply such a suspension at any time without penalty.

4.5 Provisional Hearings

The *Code* requires that an *Athlete* have the ability to challenge the imposition of a *Provisional Suspension*. This challenge takes place in a *Provisional Hearing*.

Other than the provisions referred to above concerning *Contaminated Products*, there are no grounds specified in the *Code* upon which a hearing panel might disapply a *Provisional Suspension*. However, ETH-NADO can implement its own rules in this regard.

An *Athlete* or *Athlete Support Personnel* might challenge the imposition of a *Provisional Suspension* on the following grounds:

- a. The charge has no reasonable prospect of being upheld, e.g. due to a serious flaw in the case, such as ETH-NADO is alleged not to have jurisdiction over the *Athlete* or *Athlete Support Personnel*; or
- b. There is a strong, arguable case that the circumstances are such that no period of *Ineligibility* is likely to be imposed; or
- c. Other facts make it clearly unfair to impose a *Provisional Suspension* prior to a full hearing.

In all instances, the key issue for a hearing panel to consider will be where the balance of fairness lies.

5. ADJUDICATION PROCESS

5.1 The Hearing

Any *Athlete* or other *Person* who has been formally charged with an ADRV is entitled to a fair, impartial and timely hearing.

5.1.1 Pre-hearing matters

ADRV proceedings complete several important stages before a hearing takes place. These can be managed in multiple ways, but the recommended course is as follows:

- a. The *Athlete* or *Athlete Support Personnel* will be charged by ETH-NADO with committing an ADRV.

- b. The *Athlete* or *Athlete Support Personnel* will indicate if he/she disputes the charge, the *Consequences*, or neither.
- c. If there is a dispute (or the *Consequences* must be fixed by a hearing panel, even if there is no dispute) ETH-NADO will arrange for the charge to be resolved by a hearing panel.
- d. A hearing panel will be formed to resolve the charge, and ideally the Chairperson of the panel (see below) will establish a framework for how the hearing should proceed. This should set out how ETH-NADO will present its case and when it will disclose the evidence that it has to support the charge.
- e. ETH-NADO and the *Athlete* or *Athlete Support Personnel* will exchange their evidence and provide a pre-hearing submission that explains their case.

This means that, as far as possible, when the hearing takes place, the *Athlete* or *Athlete Support Personnel* knows exactly what he or she has been charged with, including the evidence provided by ETH-NADO to justify the charges.

It should also make clear to the *Athlete* or *Athlete Support Personnel* what part of the relevant Anti-Doping rules ETH-NADO says apply, and any legal arguments that ETH-NADO will make.

If an *Athlete* or *Athlete Support Personnel* is charged with committing an ADRV, there will usually be a dispute as between ETH-NADO, which charged the *Athlete* or *Athlete Support Personnel*. That dispute will be in respect of liability ('did the *Athlete* or *Athlete Support Personnel* commit the ADRV?') and/or *Consequences* ('what period of *Ineligibility*/other sanction should be imposed on the *Athlete* or *Athlete Support Personnel*?'). In cases where liability is not disputed, the *Consequences* are still often disputed, usually because the *Athlete* or *Athlete Support Personnel* seeks to show that one or more of the 'saving' provisions in the *Code* apply.

If the parties are likely to be making legal arguments about a case, it is helpful if they make it clear what these are and what their position is in their pre-hearing submissions, based on their interpretation of the Anti-Doping rules and any reference to other Anti-Doping decisions (either at a National Level, or in relation to cases decided by the CAS). It is also helpful if copies of these decisions are supplied to the hearing panel (and the opposing party) prior to the hearing, to allow for full preparation.

5.1.2 Fair hearings

The *Code* requires disputes to be resolved by a hearing panel, and for the hearing before such panel to be conducted in a “fair” manner. The concept of ‘Fairness’ is not defined, although WADA acknowledges that the concepts associated with the ‘right to a fair hearing’ referred to in of the Convention for the Protection of Human Rights and Fundamental are an important reference point.

A fair hearing process encompasses a number of features, including:

- Provision of an impartial hearing panel;
- Access to evidence;
- Ability of the *Athlete* or *Athlete Support Personnel* to question the evidence used to base a charge;
- Practical matters such as access to translation; and
- A reasonable timeframe.

These points are discussed in more detail below.

It is not a *Code* requirement that a hearing should take place in person. Indeed, it will often be the case that hearings can only take place remotely, that is, by the participants joining together using technology. There are no restrictions as to the technology that can or should be used, but include means such as conference calling, video conferencing technology or other online communication tools. In some circumstances, it may also be fair or necessary to conduct a hearing “in writing,” based on written materials without an oral hearing. This might typically be the case in relation to matters where all the facts are agreed, and the only issue is as to the *Consequences*.

5.1.2.1 A Fair and Impartial Hearing Panel

There are no particular requirements as to what sort of person can or should be part of a hearing panel. The usual format of a hearing panel is that it takes the form of a tribunal, with three members, although in simple cases a hearing panel comprised of one person may be sufficient if all the parties agree. One member of the hearing panel should be appointed as ‘the Chairperson’. The Chairperson has no formal responsibilities but will be the person who leads the hearing, by, for example, telling the parties how the hearing panel would like the hearing conducted, which evidence should be presented in which order, and what issues the hearing panel feels it needs to consider. The

Chairperson is usually someone with a legal background, although this is not essential, particularly if the hearing panel has access to an ad hoc legal advisor appointed to assist the hearing panel with any legal issues that arise in relation to the relevant Anti-Doping rules (for example, the length of sanction that can be imposed in relation to a particular ADRV).

The other members of the hearing panel should provide a collective expertise in relevant fields, such as science, medicine or sport. For example, if a claim is made by an *Athlete* that a certain *Prohibited Substance* was used *Out-of-Competition*, rather than *In-Competition*, a hearing panel member with a science background will be helpful. The intention is that a hearing panel has as broad a cross-section as is available in terms of experience, skills and background. It is particularly helpful for retired *Athletes* or *Athlete Support Personnel* to be members of hearing panels (there is no formal bar on competing *Athletes* or *Athlete Support Personnel* being members of hearing panels, but such an appointment would need to be made sensitively).

A hearing panel must approach all disputes without having made any determination as to the outcome. This requires each member of a hearing panel to be ‘impartial’. Members of a hearing panel should not have any formal role in the governance of the organization whose Anti-Doping rules the *Athlete* or *Athlete Support Personnel* is charged with breaching. Such a *Person* will risk being put in a position of conflict of interest if, for example, the outcome of a hearing will reflect positively or negatively on the organization. Indeed it will be difficult for such a *Person* to avoid the appearance of being in a position of conflict, which is, for practical purposes, the same as an actual conflict.

The hearing panel should operate according to clear hearing procedures, which must be available to the parties. It should have some degree of discretion so that it can adapt those procedures to the particular case before it. For example, if the *Athlete* or *Athlete Support Personnel* is not represented by legal counsel, the hearing body may have to be more flexible and take a more active role in the questioning to ensure that the hearing is fair.

How a hearing panel is appointed depends on ETH-NADO that has charged the *Athlete* or *Athlete Support Personnel* chooses to operate, but will generally involve ETH-NADO having access to a number of potential hearing panel members, collectively referred to as a ‘pool.’ The pool will be appointed by ETH-NADO, or can be provided by a specialist dispute resolution service provider. The pool size and composition will be determined by the number and nature of the charges that ETH-NADO anticipates being involved in so there is no conflict of interest and appropriate expertise. When a charge is ready to be determined by a hearing panel, ETH-NADO (or its service provider) will appoint a hearing panel comprised of pool members which ETH-NADO considers to be an appropriate hearing panel given the nature of the relevant charge and the evidence to be put forward by ETH-NADO and the *Athlete* or *Athlete Support Personnel*. The *Athlete* or *Athlete Support Personnel* must have an opportunity to challenge the appointment of any member if there is cause to do so.

Examples of such cause would be that the relevant member appears to have a conflict, or has a procedural impediment to appointment.

Once the composition of a hearing panel is determined (which can and should take place early in the course of the disciplinary proceedings), the hearing panel will hear the charge by reference to the evidence submitted by the parties.

5.1.2.2 Opening a Hearing

Anti-Doping hearings are intended to be informal in terms of matters such as presentation of evidence and submissions, and so there are no set formats for how a hearing should proceed. However, it is helpful if hearing sit is following the same basic model, which encompasses:

- a. Welcomes those present, and introduces him/herself and the members of the hearing panel.
- b. Briefly explains the purpose of the hearing, and asks the parties (and their representatives and witnesses) to identify themselves.
- c. Invites witnesses to either stay in the hearing room, or wait in another room, pending the giving of their evidence.
- d. Asks the parties to make a brief statement on their positions in the case.

- e. Asks the lead party (that is, the party that is bringing the case: in first instance hearings, this will be ETH-NADO: in appeals, it will be the ETH-NADO or the relevant *Participant*) to start the proceedings by presenting the evidence that it has that supports its position.

5.1.2.3 Hearing Evidence

A fundamental precept of all Anti-Doping proceedings is that ETH-NADO which has charged the *Athlete* or *Athlete Support Personnel* with committing an ADRV must prove that the ADRV was committed. The *Athlete* or *Athlete Support Personnel* doesn't have to prove that they didn't commit the ADRV.

This means that ETH-NADO must present its evidence to a hearing panel and demonstrate that that evidence shows that the ADRV was committed. As explained above, this evidence should be shared with the *Athlete* or *Athlete Support Personnel* before the hearing takes place. This is so that the *Athlete* or *Athlete Support Personnel* (a) understands the case that is being made against them; (b) can investigate the evidence that has been prepared by ETH-NADO against them; and (c) can prepare their own evidence in response.

Evidence can take the form of documents, witness evidence, expert evidence or a combination of the three. The *Athlete* or *Athlete Support Personnel* should indicate prior to a hearing which evidence they accept, and which they don't. This also applies to ETH-NADO and the evidence put forward by the *Athlete* or *Athlete Support Personnel*. Evidence that isn't challenged will be presented to the hearing panel by ETH-NADO as being evidence that isn't the subject of any dispute.

Agreeing to evidence prior to a hearing allows the focus to be on the issues that really matter. This approach can be particularly useful in relation to background facts in a case. An agreement can be made in writing by the parties. Evidence contained in a witness statement can also be confirmed as being agreed.

The evidence that is relied on by ETH-NADO should generally be contained in the statement of one or more witnesses who have a close knowledge of the case. It is not essential that a witness gives evidence on matters that he or she has direct knowledge. However, it is very important that witness statements are signed and contain a specific confirmation that the statement is true.

The same principles should apply to evidence relied upon by an *Athlete* or *Athlete Support Personnel*. Hearing panels will, however, recognize that it is frequently the case that an *Athlete* or *Athlete Support Personnel* won't have the resources and access to specialist advice that ETH-NADO has. There will therefore be a greater degree of informality about how an *Athlete* or *Athlete Support Personnel* provides his/her evidence.

The *Athlete* or *Athlete Support Personnel* must be allowed to question, or 'cross examine', any *Person* who provides evidence at a hearing. This provides the *Athlete* or *Athlete Support Personnel* with the opportunity to ask questions about all aspects of the evidence. It is also an opportunity for the members of the hearing panel to ask witnesses questions. Similarly, ETH-NADO must be allowed to cross-examine the witnesses of the *Athlete* or *Athlete Support Personnel*.

It is essential that the *Athlete* or *Athlete Support Personnel* understands the evidence that is being relied upon by ETH-NADO. This might, in certain cases, raise practical issues such as translation, or preparation time. ETH-NADO should make sure that all significant evidence is made available to an *Athlete* or *Athlete Support Personnel* in the language that that person is most comfortable with. It should also allow that *Person* sufficient time to examine the evidence and make any enquiries or investigations they need to make. These are both matters that should be managed by the Chairperson of the hearing panel in the pre-hearing phase. A hearing should end only when both the ETH-NADO and the *Athlete* or *Athlete Support Personnel* (a) have presented all the evidence they want to rely on to the hearing panel and (b) have been provided with an opportunity to ask questions to the witnesses who have put forward that evidence.

5.1.2.4 Closing a hearing

Once the hearing of the evidence concludes, the Chairperson should invite ETH-NADO and the *Athlete* or *Athlete Support Personnel* to summarize their respective positions in a closing statement.

During the course of the closing statement, each party may wish to make submissions about legal points that arise in relation to the case. These should be made by reference to (a) the summary of the legal position that the party is taking, as detailed in the pre-

hearing phase, and (b) how (if at all) that position has been modified by the evidence presented to the hearing panel. In any case, the parties should make reference to the relevant Anti-Doping rules and how they apply to the facts established by the evidence (especially to support any reduction of the sanction being sought). The *Athlete* or *Athlete Support Personnel* should have the ‘last say’ that should be the one that close the hearing.

5.1.3 Event Hearings

Event Hearings take place during the course of an *Event*, such as a Major *Event* where the *MEO* conducts a *Sample* Collection Session. The *Samples* are analyzed within a timeframe that can produce an *AAF* during the timeframe of the *Event*. If this happens, the *MEO* will want to take action to void any results and disbar the *Athlete* from its *Competition*.

This will usually require a hearing. The main and obvious difference between *Event* Hearings and hearings outside of an *Event* is the time within which they are convened. *Event* Hearings are conducted on an ‘expedited’ basis, meaning that they take place very soon after an *Athlete* or *Athlete Support Personnel* is charged with committing an ADRV. This is in the interests of both the *MEO* (it needs results to be revised quickly and *Competition* schedules to be amended if an *Athlete* is not eligible to compete) and the *Athlete* or *Athlete Support Personnel* (both of whom will want the matter resolved quickly so that they can resume participation). There are no special rules regarding expedited hearings, in that they must also be “‘fair.”

5.1.4 Waiver of hearing

Often there is no dispute between *ETH-NADO* and an *Athlete* or *Athlete Support Personnel* as regards an ADRV charge. The *Athlete* or *Athlete Support Personnel* may admit the wrongdoing and accept *ETH-NADO*’s case regarding the *Consequences* to be imposed. In such situations, there is no need for a hearing to be conducted no dispute to resolve.

If this is the case, *ETH-NADO*’s Anti-Doping rules might make provision for the matter to be resolved without a hearing, for example, by the parties agreeing that an ADRV has been committed and the *Athlete* or *Athlete Support Personnel* accepting the *Consequences*. But as Section 5.2.3 below notes, such resolutions require a “‘reasoned

decision” for ETH-NADO with a right of appeal and the *Athlete* to understand the outcome.

In particular, if ETH-NADO has applied the provisions in the *Code* that allow for the imposition of a reduced sanction, it should explain how these have been applied on the basis of the facts and any legal justification, such as reference to similar cases decided by Anti-Doping disciplinary tribunals.

Special consideration should be given to the recording of decisions whereby a suspension of part of the sanction is agreed based on *Substantial Assistance*.

5.1.5 Single CAS hearing

The *Code* contains a provision that allows ETH-NADO and an *Athlete* or *Athlete Support Personnel* to have an ADRV matter determined by the CAS at a single hearing. All parties to the case must agree to this, as well as the relevant IF and WADA. This is a different way of approaching such hearings (CAS is usually engaged to resolve appeal hearings). The advantage lies in the potential cost savings, especially if the nature of the case is such that the need for ultimate resolution by the CAS is clear.

5.2 The Decision

5.2.1 Timing

The decision shall be rendered shortly after the hearing. The hearing process shall be conducted as soon as possible after the notification of the asserted ADRV to the *Athlete* or other *Person*. Once a decision has been taken by the hearing panel in charge of the case, ETH-NADO shall ensure that a complete and reasoned decision is notified to the parties with a right of appeal under the *Code* as provided in *Code* on a timely basis.

Any process delay is potentially harmful to the sport and the fight against doping and may lead WADA to refer the case directly to CAS at the ETH-NADO’s cost.

5.2.2 Content

As stipulated in the *Code*, the Anti-Doping decision should include an explanation of the reason(s) for the *Consequences*. This obligation is also applicable when the *Athlete* waives his/her right to a hearing and accepts the *Consequences* sought by ETH-NADO.

This is necessary to allow the parties with a right of appeal to review the decision in an appropriate fashion.

The following information appears in the written decision:

a. Jurisdiction and applicable rules

The first question to address is the jurisdiction and the applicable rules. The hearing panel in charge of the case shall ensure that it has jurisdiction to deal with the case on the basis of the applicable rules. The rules on the basis of which the case was dealt with shall be indicated in the decision.

b. Factual background

In this section of the decision, the chronology of the case shall be presented. If the case is based on an *AAF*, the date of the Sample Collection Session, the place, the type of *Sample* (blood or urine), *In-Competition* or *Out-of Competition*, etc. shall be indicated, as well as the Laboratory which conducted the analysis, the date of the Analysis Result Record and the *Prohibited Substance* detected. If a B *Sample* analysis was requested and performed, this shall also appear in this section of the decision. If the case is a Non-Analytical one, a full and detailed description of the facts which led to the instigation of proceedings by ETH-NADO shall be made.

c. ADRV – Rule(s) violated

In this section, the hearing panel's consideration as regards the establishment of the ADRV shall be presented. In case of an *AAF*, the hearing panel shall confirm that the *Prohibited Substance* detected is a *Prohibited Substance*, that there was no departure from the *International Standards*, or that the alleged departure(s) did or did not cause the *AAF*. If the case is a Non-Analytical one, the hearing panel shall, in this section, assess the evidence presented and explain why it considers that the evidence presented by ETH-NADO meets or does not meet the required standard of proof. In case the hearing panel considers that the ADRV is established, it shall expressly indicate the Anti-Doping rule(s) violated.

d. Sanction

The decisions shall then address the issue of the applicable sanction or regime of sanction for the ADRV in question (alone or in combination with others) and then consider whether or not there are circumstances which could justify the

imposition of a reduced sanction or an increased sanction, and if so, provide the reasons for the sanction ultimately imposed. Sanctions imposed from within a range must be explicitly justified (e.g. in cases of *Specified Substances* or *Contaminated Products*):

Once the sanction has been set, the hearing panel shall indicate the date on which the period of *Ineligibility* starts. If the start date is not the decision date, this shall be explained. The hearing panel is also required to indicate the relevant period of disqualification of the results in accordance with *Code*. A mandatory part of each sanction shall include automatic publication, except in the case of a *Minor*.

e. Appeals routes

Last but not least, the decision shall indicate the possible appeals routes and the deadline to proceed.

5.2.3 Acceptance form/waiver of hearing

A decision is still required by the hearing panel even though the *Athlete* has waived his/her right to a hearing, admitted an ADRV and accepted the *Consequences* sought by ETH-NADO. This requirement is stipulated in the *Code*: A reasoned decision explaining the action taken is necessary even in the case the *Athlete* or other *Person* accepted the sanction sought by ETH-NADO.

This reasoned decision is necessary for the parties with a right of appeal to review the case and the hearing panel reasoning. It shall therefore be notified to all parties with a right of appeal under the *Code*.

5.2.4 Notification

The reasoned decision (ideally with all supporting documents) shall be notified without delay to the *Athlete* or other *Person* as well as to any party with a right of appeal under the *Code*. The decision shall be in Amharic language [working language of the federal government] & it shall include a short summary in English language.

5.2.5 Publication

The following information shall be made public by ETH-NADO within 20 days from the decision date:

- *Athlete* or other *Person*'s name

- Sport
- Anti-Doping rule violated and the *Prohibited Substance* or *Prohibited Method* involved, if applicable
- The *Consequences* (sanction).

At a minimum, this information shall be posted on ETH-NADO's Web site for the longer of one month or the duration of the period of *Ineligibility*. If the *Athlete* or other *Person* is a *Minor*, no publication is required.

5.2.6 ETH-NADO's post-decision duties

As a *Signatories to the Code*, ETH-NADO shall take appropriate action to ensure proper enforcement of the *Consequences* of ADRVs.

5.2.6.1 Prohibition of participation

ETH-NADOs shall ensure that the sanctions pronounced are duly respected, and that no *Athlete* or other *Person* sanctioned for an ADRV takes part in the sport. Any breach of the prohibition against participation during *Ineligibility* shall be immediately prosecuted in accordance with *the Code*.

This prohibition is quite extensive, as the *Athlete* or other *Person* serving a period of *Ineligibility* cannot take part in the sport in any capacity. It means for example that a suspended *Athlete* cannot carry over any function in a national association or member club, even administrative or managerial functions.

5.2.6.2 Availability for Testing

An *Athlete* subject to a period of *Ineligibility* shall be made aware by ETH-NADO that they shall remain subject to *Testing* during the period of *Ineligibility*.

5.2.6.3 Return to training

An *Athlete* may return to train with a team or use the facilities of a club before the end of his/her period of *Ineligibility* under the conditions in the *Code*.

5.2.6.4 Recognition of decisions

The final adjudication of any *signatory* that is consistent with the *Code* and within that *Signatory's* authority shall be applicable worldwide, recognized and respected by all other *Signatories*.

5.3 Appeals

5.3.1 Principles

The majority of decisions rendered under *Code*-compliant rules may be appealed. Once an appeal has been lodged, the appealed decision remains in effect, unless the appeals body orders otherwise.

Depending on the status of the *Athlete* or other *Person*, or on the hearing body whose decision is appealed, an appeal is lodged either before the ETH-NDO Anti-Doping Appeal Panel or the CAS.

For *ETH-NADO*, having an internal appeals body, an appeal can be lodged before appealing to the CAS. Should there be no appeal before *ETH-NADO*'s internal appeals body, *WADA* has the right to appeal directly to the CAS and has no obligation to exhaust internal remedies.

5.3.2 Cases of international nature

If a case arises from an *International Event* or involves an *International-Level Athlete*, as defined by the relevant IF, the first instance decision may be appealed exclusively before the CAS. Parties with a right of appeal to the CAS are listed in the *Code*.

Some IFs have their own appeals body. The *Athlete* or other *Person* may have the obligation under the applicable IF rules to appeal his/her case first before this body. As indicated above in Section 5.3.1, *WADA* isn't required to exhaust internal remedies.

5.3.3 Other cases

If the case is not a case of international nature, the decision may be appealed before the ETH-NDO Anti-Doping Appeal Panel, which shall be independent from ETH-NADO having issued the appealed decision and impartial. The procedural rules shall be set in ETH-NADOs rules. The parties with a right of appeal to the CAS are listed in the *Code*. The decision rendered by the ETH-NDO Anti-Doping Appeal Panel may be appealed further to the CAS but only by the applicable IF, *WADA* and, where applicable, the IOC and the IPC.

5.3.4 Deadlines

The deadline to file an appeal with the CAS is set in the ETH-NADOs rules.

As recommended in *WADA*'s Model Rules, the deadline is generally twenty one days.

The deadline starts:

- On the date of reception of the full case file by the appealing party (decision and supporting documents), if such case file is requested within fifteen days of receipt of the reasoned decision. ETH-NADO can request a copy of the full case file.

This is particularly important, as parties such as *WADA* or the applicable IF may decide to appeal a decision to the *CAS* without having taken part in the case prior to the lodging of their appeal. In the absence of a time limit set in ETH-NADO's rules, the time limit for appeal before the *CAS* is twenty one days from receipt of the decision appealed against.

- On the date of reception of the reasoned decision by the appealing party, if the case file was not requested within fifteen days from the notification of the reasoned decision.

The deadline to file an appeal before the ETH-NDO Anti-Doping Appeal Panel shall be set in the ETH-NADO's rules or in the rules of the tribunal in charge of the appeals in case it is separated from ETH-NADO. It is generally twenty one days as recommended in the Model Rules published by *WADA*. Any deadline shall not start running before the appealing party has received the full case file for the reasons indicated above.

A specific rule applies to *WADA*. The deadline for the filing deadline for an appeal filed by 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.

5.3.5 Appeal to the *CAS*

The *CAS* is an arbitration body specialized in sport-related disputes and having its seat in Lausanne, Switzerland. The *CAS* is the last resort disciplinary body for doping-related matters under the *Code*. Doping cases may also be referred to the *CAS* at an earlier stage, e.g. when an *ADO* fails to hold a hearing or to render a decision or when all parties agree

All appeals before the *CAS* take the form of a complete re-hearing of the issues on appeal, and the *CAS* panel can substitute its decision for the decision subject to the appeal.

CAS decisions are final and binding for all parties involved. The CAS hearing procedure is detailed in the Code of Sports-related Arbitration and Mediation Rules.

6. SUBSTANTIAL ASSISTANCE

6.1 Principle

The *Substantial Assistance* provisions in discovering or establishing ADRVs are detailed in the *Code*.

Substantial Assistance allows for the partial suspension of part of an *Athlete's* or *Athlete Support Personnel's* period of *Ineligibility*, if he/she provides information supporting the resolution of another ADRV (or a separate disciplinary or criminal matter).

6.2 Jurisdiction

ETH-NADO can agree to partial suspension of a period of *Ineligibility* in cases that it brings against an *Athlete* or *Athlete Support Personnel*. However, depending on when the suspension is agreed, other parties may be involved in that decision:

- a. ETH-NADO can exercise its discretion to suspend unilaterally in any case before there is an appeal or the time for appeal has expired.
- b. ETH-NADO can refuse to exercise its discretion to suspend before there is an appeal or the time for appeal has expired, in which case the *Athlete* or *Athlete Support Personnel* can appeal that refusal.
- c. ETH-NADO can exercise its discretion to suspend after an appeal or the time for appeal has expired, but needs the agreement of the IF and WADA to do so.
- d. ETH-NADO can refuse to exercise its discretion to suspend after an appeal or the time for appeal has expired (or be unable to do so because the IF and WADA don't agree) in which case the *Athlete* or *Athlete Support Personnel* can appeal.

6.3 Requirements

The *Code* establishes that a number of components need to be satisfied before a sanction suspension can be agreed:

- a. The *Athlete* or *Athlete Support Personnel* must fully disclose in a signed written statement all information that he or she possesses in relation to other ADRVs.
- b. The information must be credible and must comprise an important part of any case that is initiated or, if no case is initiated, must have provided a sufficient basis upon which such a case could have been brought.
- c. The *Athlete* or *Athlete Support Personnel* must cooperate with the investigation and adjudication of any case (including by testifying at a hearing if requested to do) in any Anti-Doping case, or a disciplinary or criminal matter based on the information supplied by the *Athlete* or *Athlete Support Personnel*.
- d. Upon suspension of any part of the period of *Ineligibility* in consultation with WADA renders any pending appeals as compromised and the imposed sanction final.
- e. The length of the suspension is based on “the seriousness of the Anti-Doping Rule Violation committed by the *Athlete* or *Athlete Support Personnel* and the significance of the *Substantial Assistance* provided by the *Athlete* or *Athlete Support Personnel* to the effort to eliminate doping in sport.”

6.4 Full Disclosure

ETH-NADO should not agree to suspend a sanction unless it is satisfied that the *Athlete* or *Athlete Support Personnel* has provided a full and frank disclosure of all of the facts surrounding the ADRV committed by the *Athlete* or *Athlete Support Personnel*.

In a case involving a positive test, this will mean that the *Athlete* will have to explain how the *Use* of the *Prohibited Substance* came about, where it was obtained, how long it had been *used* for, and so on.

ETH-NADO should also be satisfied that the *Athlete* or *Athlete Support Personnel* has provided a full and frank disclosure of all previous ADRVs. The *Code* provides that if an *Athlete* or *Athlete Support Personnel* admits having committed other ADRVs in the past, they will not to be treated as being separate ADRVs.

6.5 Nature of Information

The *Code* provides that any information provided must be credible and must comprise an important part of any case that is initiated or, if no case is initiated, must have provided a sufficient basis upon which such a case could have been brought.

The complexity of this component depends on the nature of the relevant ADRV. If the information leads to another *Person* testing positive, ETH-NADO can treat this requirement as having been satisfied. Outside of Analytical cases, the issue of whether or not assistance is *Substantial Assistance* is not straightforward. The CAS ruling in the *IAAF vs. Pelaez* matter (CAS 2011/A/2678) states that:

“assistance will not qualify as substantial unless and until it actually results in the discovery or establishment of an anti-doping rule violation by a third party, or unless and until it actually results in the discovery or establishment of a criminal offence or of a breach of professional rules by a third party.” Unless it is clear and obvious that the assistance provided has been “substantial,” ETH-NADO must decline to exercise its discretion in such matters, and invite the *Athlete* or *Athlete Support Personnel* to demonstrate why a sanction suspension is warranted.

6.6 Full Cooperation

The *Code* requires an *Athlete* or *Athlete Support Personnel* to cooperate with the investigation and adjudication of any case (including by testifying at a hearing, if requested), any Anti-Doping case, disciplinary or criminal matter, based on the information supplied by the *Athlete* or *Athlete Support Personnel*.

This component is (in the main) straightforward, although there are one or two complications that may arise. The requirement will not arise if the *Athlete* or *Athlete Support Personnel* provides assistance which results in an AAF being recorded against another *Person* for a *Prohibited Substance* –ETH-NADO will not need the *Athlete* or *Athlete Support Personnel* to testify in such cases.

In Non-Analytical cases, if the *Athlete* or *Athlete Support Personnel*’s information is an important part of the case against another *Person*, then the *Athlete* or *Athlete Support Personnel* must agree to act as a cooperative witness in the case in any hearing. The fact that he or she has been offered a sanction suspension in return for providing assistance will be disclosed to the other person and the relevant hearing panel. In this

regard, the *Athlete* or *Athlete Support Personnel* will be advised that the other person or the hearing panel may require him or her to attend a hearing, even if ETH-NADO does not require this.

6.7 Extent of Sanction Suspension

The *Code* requires that the length of any sanction suspension is to be based on the seriousness of the ADRV committed by the *Athlete* or *Athlete Support Personnel* and the significance of the *Substantial Assistance* provided by the *Athlete* or *Athlete Support Personnel* to the effort to eliminate doping in sport. A recommended approach for ETH-NADO is as follows:

- The maximum sanction suspension will be agreed only in exceptional cases where the *Athlete* or *Athlete Support Personnel* makes a full and prompt admission, cooperates immediately and offers assistance which results in another ADRV matter being discovered or established, or offers significant assistance to law enforcement;
- A sliding scale will apply thereafter, whereby a sanction suspension's length will depend upon the point in proceedings when an *Athlete* or *Athlete Support Personnel* provided information;
- It is recommended that no suspension will be offered in cases which involve the *Athlete* or *Athlete Support Personnel's Trafficking to a Minor* or *Administration to a Minor*. These are serious and egregious violations.

6.8 Transparency and *Athlete Risk*

All *Athletes* or *Athlete Support Personnel* who provide *Substantial Assistance* will be concerned about the extent to which they might be associated with the information that they have provided, and thereby suffer some form of adverse consequences by being perceived as an informant

In respect of the actual reasoned decision, the decision can be silent as to the fact of a suspension. This can be achieved by ensuring that the record of the suspension is kept confidential as between the parties. However, in certain cases, associating the *Person* who has been given a suspension with the evidence supplied may be unavoidable.

Actual association by giving of evidence is straightforward. Implied association is less straightforward – this might arise if an *Athlete* is banned for x years, but returns to involvement with sport in (say) $x - 2$ years. Observers may conclude that the reason for the early return is that the *Athlete* or *Athlete Support Personnel* must have provided assistance to the Anti-Doping authorities, and indeed must have given assistance in relation to a specific case. How likely this is will depend on each case. That risk needs to be communicated to the *Athlete* or *Athlete Support Personnel* by ETH-NADO: even though the process of a case may not require the *Athlete's* or *Athlete Support Personnel's* involvement to be disclosed, the overall circumstances may lead others to conclude that this must have been the case.

6.9 Exceptional Cases

In truly exceptional cases, WADA has the power to agree a full sanction suspension, and restoration of results and prizes, with confidentiality restrictions. Such cases will require the involvement of a number of parties.

6.10 Reinstatement of Full Sanction

As indicated above, application of a *Substantial Assistance* provision does not lead to a reduction of the sanction but a partial suspension of the execution of the otherwise applicable period of *Ineligibility*. The reason of this system is to ensure ETH-NADO has the possibility to reinstate the original period of *Ineligibility* if the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible assistance upon which the suspension of the period of *Ineligibility* was based, or when it appears that the information provided was not accurate.

If ETH-NADO decides to reinstate the original period of *Ineligibility*, this decision can be appealed as per the *Code*.

7.0 IMPLEMENTATION STRATEGY

7.1 Awareness Creation and Training

ETH-NADO recognizes that awareness and training plays a pivotal role in the fight against Doping. Accordingly, it will organize and undertake awareness and training programs about these Result Management Guiding Procedures for information and experience sharing among the key staffs of the Office, National Olympic Committee, Paralympic Committee, National Sport

Governing Bodies, Officials of the Federal and Regional States, professionals, athletes and Support Personnel.

ETH-NADO also underlines the importance of involving the staff of the media and the general public in its specially designed awareness and training programs. Hence, these Result Management Guiding Procedures will be communicated to the wider public using the full range of communication methods available to the office.

7.2 Monitoring and Evaluation

Monitoring and evaluation of a procedure is required to make the necessary modifications and adjustments on the right time. Problems faced in the implementation process of the guiding procedure and any legal and procedural amendments made by WADA could serve as the main compelling reasons for reviewing these Result Management Guiding Procedures.

Therefore, implementation of these Result Management Guiding Procedures will be continuously monitored and evaluated, and the document will be reviewed periodically as necessary in the light of changing conditions.

TEMPLATES B

Date :

Ref:

Strictly Confidential

AAF Notice of Charge with optional Provisional Suspension (Specified Substances)

To:

Addis Ababa

Subject: Notice of Charge and Provisional Suspension under the ETH-NADO Anti-Doping Rules

Dear,

This letter is written to give you formal notice that you are being charged with a violation of the ETH-NADO Rule, referred to as “the ADR” in this letter.

1. The Anti-Doping Rules

1.1 You are subject to and bound to comply with the ADR. Capitalized terms used, but not defined in this letter, are as defined in the ADR.

1.2 Pursuant to the ADR, ETH-NADO is responsible for conducting the anti-doping disciplinary proceedings associated with this matter.

2. Facts

2.1 On/...../....., a ETH-NADO Doping Control Officer (“DCO”) collected a urine Sample from you. Assisted by the DCO, you split the Sample into two separate bottles, which were given reference numbers A (the “A Sample”) and B (the “B Sample”).

2.2 Both Samples were transported to the World Anti-Doping Agency (“WADA”) - accredited Laboratory in Qatar Doha, the Qatar Anti-Doping Laboratory (the “Laboratory”). The Laboratory analyzed the A Sample in accordance with the procedures set out in WADA’s

International Standard for Laboratories. Analysis of the A Sample returned an Adverse Analytical Finding (“AAF”) for the following:

2.2.1 Name of the Prohibited Substance :

2.3 is listed as an exogenous under of WADA’s Prohibited List.

2.4 According to our records, you do not have a Therapeutic Use Exemption (“TUE”) to justify the presence of in your system.

3. Charge

3.1 The AAF in your A Sample has been reviewed (in accordance with Article 7.2 of the ETH-NADO Anti-Doping Rule and it has been determined that you have a case to answer for a violation of Article 2.1 of the ETH-NADO Rule, namely the Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample.

3.2 You are hereby formally charged with the commission of an anti-doping rule violation (‘ADRV’) for the Presence of:

3.2.1 in a *Sample* provided by you on numbered A, in violation of Article 2.1 of ETH-NADO Anti-Doping Rule.

4. Consequences

4.1 Our records indicate that this is your first ADRV, therefore you will be subject to the Consequences specified in Article 10.2 of the ETH-NADO Anti-Doping Rule for a first offence, which means a period of Ineligibility of UP to 4 years.

4.2 Pursuant to Article 10.2.1 ADR, ETH-NADO will assert that the Consequences which should be imposed upon you should be a period of Ineligibility of UP to 4 years.

4.3 Article 10.2.1.2 ADR explains that a period of Ineligibility of 4 years will be imposed where ETH-NADO can establish that the ADRV was intentional. If ETH-NADO is unable to establish that the ADRV was intentional, a period of Ineligibility of 2 years will be imposed.

4.4 Any period of *Ineligibility* imposed may be:

4.4.1 Eliminated completely, if you can establish *No Fault or Negligence* pursuant to article 10.4 of ETH-NADO Anti-Doping Rule;

4.4.2 Reduced down to a reprimand, depending on your degree of *Fault*, if you can establish *No Significant Fault or Negligence* pursuant to Article 10.3.2 and 10.5.1.1 of ETH-NADO Anti-Doping Rule; or

4.4.3 Partially suspended if you assist ETH-NADO in uncovering and/or establishing an ADRV by another Athlete or Athlete Support Personnel pursuant to Article 10.6.1 of the ETH-NADO Anti-Doping Rule. Discretion exists under Article 10.6.1.1 ADR to suspend up to three-quarters of the period of Ineligibility if you assist ETH-NADO (or another ADOs) in uncovering or establishing one or more ADRVs by another Athlete or Athlete Support Personnel.

5. Optional Provisional Suspension

5.1 In accordance with Article 7.9.1 ETH-NADO Anti-Doping Rule, you are hereby Provisionally Suspended from participating in any IF and ETH-NADO sanctioned *Competition* prior to the final decision being reached at a hearing of this matter. Your *Provisional Suspension* will extend to all *Competitions, Events* or other activities that are organized, convened, authorized or recognized by any other World Anti-Doping Code-compliant body. Please contact ETH-NADO if you have any questions regarding the terms of your Provisional Suspension.

5.2 You may avoid the application of this *Provisional Suspension* if you are able to provide ETH-NADO with an adequate explanation for the *AAF* before/...../..... Failure to do so will result in the *Provisional Suspension* becoming effective on the date and time given above.

5.3 If you do not provide an adequate explanation by this deadline and a *Provisional Suspension* is consequently imposed, Article 7.9.3.1 ADR stipulates that you will not have the right to apply to have that *Provisional Suspension* lifted prior to the full hearing of this matter.

6. What happens next

6.1 Your explanation:

6.1.1 If you want to avoid being provisionally suspended, you must provide written explanation for the *AAF* by .../...../..... You should also include if you admit or deny the charge. If you do not provide an adequate explanation regarding the *AAF*, the *Provisional Suspension* will come into automatic effect.

6.2 Admitting the charge:

6.2.1 If you admit the charge, you will be deemed to have accepted the accuracy of the *AAF* made in respect of the A Sample, and to have waived your right to have the B *Sample* analyzed to confirm that finding (see paragraph 7 below as regards the B *Sample*).

6.2.2 If you admit the charge you must accept the *Consequences* set out in paragraph 4.1.

6.3 Acceptance of the charge but no agreement as to *Consequences*:

6.3.1 You have the right to accept the charge, but ask that the ETH-NADO disciplinary panel determine what *Consequences* should be imposed upon you.

6.3.2 Any request must be made to the ETH-NADO disciplinary panel. You can, of course, contact the ETH-NADO also to ask that a hearing be convened.

6.4 Denial of the charge:

6.4.1 You have the right to deny the charge and to have the matter referred to ETH-NADO disciplinary panel, which will determine the case at a hearing. It will be ETH-NADO's burden to prove the charge against you to the comfortable satisfaction of the tribunal. If ETH-NADO is unable to discharge this burden, then the charge against you will be dismissed.

6.4.2 If the charge is upheld or you later admit the ADRV, the ETH-NADO disciplinary panel will determine what *Consequences* should be imposed upon you.

6.4.3 If you deny the charge, you can request a full expedited hearing, which will be convened as soon as possible to resolve this matter. Any such request must be made to the ETH-NADO disciplinary panel. Again, you can also contact ETH-NADO to ask that a hearing be convened.

6.5 Irregardless, you must provide a detailed response to this Notice of Charge by/...../..... If you fail to respond by this deadline, you will be deemed to have admitted the charge and accepted the *Consequences* outlined in paragraph 4.3 above.

7. Optional B Sample analysis

7.1 You have the right to have your B *Sample* analyzed to confirm (or otherwise) the AAF made in relation to your A *Sample*.

7.2 If you choose to have your B *Sample* analyzed, the analysis will take place at the Laboratory at a date and time to be advised. You are entitled to attend the opening and analysis of the B *Sample*, or the Laboratory will arrange for an independent third party to be present.

7.3 Alternatively, you may waive your right to analysis of your B *Sample*. In those circumstances, you will be deemed to have accepted the A *Sample* result, but you may still challenge the matter at a hearing if you wish.

7.4 Please note that if you request the analysis of the B *Sample* and that analysis confirms the AAF made in relation to the A *Sample*, you will be required to pay the cost of that analysis, which is cost of B *Sample* analysis, plus VAT if applicable. If the B *Sample* analysis does not confirm the AAF, then you will not have to pay the costs of that analysis.

7.5 Please confirm as soon as possible if you would like to have your B *Sample* analyzed.

In accordance with the ETH-NADO Anti-Doping Rule, a copy of this letter is being sent to:

- 1) NF
- 2) IF
- 3) WADA Results Management.

Each is bound, in accordance with Article 14.1.5 of the ETH-NADO Anti-Doping Rule to maintain confidentiality in this matter until the B Sample analysis has been concluded or until the B Sample analysis is waived.

Your identity may be publicly disclosed after receipt of this notice but no earlier than the effective date and time of the *Provisional Suspension* outlined in paragraph 5 above.

Yours sincerely,

cc: NF,
IF,
WADA

Enclosures:

- ETH-NADO Anti-Doping Rule;
- WADA year *Prohibited List*;
- *Doping Control* form dated;
- Analysis Results Record dated;
- Laboratory Documentation Package dated

Date :

Ref:

Strictly Confidential

Notice of Reasoned Decision

To:

Addis Ababa

Subject: Notice of Reasoned Decision

1. Details of the case

1.1 **Members of Disciplinary panel (or Anti-Doping Appeal Board)**

1.2 Name of accused *Athlete*:

1.3 Sports Federation:

1.4 Name of *Athlete* Representative, if any:

1.5 Name of prosecutor (on appeal, the name of *the ETH-NADO's* representative):
.....

1.6 Venue of hearing:
.....

1.7 Date of hearing:
.....

2. Introduction and Jurisdiction

2.1 This is the final Decision of the **Anti-Doping Tribunal as between ETH-NADO and** relating to an Anti-Doping Rule Violation (“ADRV”) arising from the ETH-NADO Anti-Doping Rules (“the ADR”)

2.2 ETH-NADO is the *National Anti-Doping Organization* (“NADO”) for Ethiopia.

2.3 The *Athlete* is a year-old competitor in sport. At all material times, he/she was subject to the jurisdiction of ETH-NADO and bound to comply with the ADR. Pursuant to the ADR, ETH-NADO was empowered to conduct *Doping Control*, as those terms are used in the ADR, in respect of all *Athletes* subject to the jurisdiction of the Federation.

3. Background and charges

3.1 Tested for *Prohibited Substances* on/..../.....

3.2 Analyzed by the World Anti-Doping Agency (WADA)-accreditedLaboratory in
.....

3.3 Substances identified in the *Sample* number

3.4 *Adverse Analytical Finding* (“*AAF*”) reviewed, and no departures from the International Standards for Laboratories or International Standards for Testing and Investigations was identified. The *Athlete* does not hold a Therapeutic Use Exemption (*TUE*).

3.5 Notification of charge to the *Athlete* on .../..../..... [reference specific rules violated].

4. Procedural issues and plea

Procedural steps and choices made by the *Athlete* with regard to procedure:

4.1 Notice of Charge [include reference to the specific rules violated]

4.2 Request/Waiver of B *Sample Testing*

4.3 Representation at the hearing

4.4 Presence of an interpreter at the hearing and associated costs

4.5 Explanation of the *Athlete*’s rights

4.6 *Athlete*’s plea

5. Evidence

5.1 The evidence presented by the prosecutor in this matter consisted of:

5.1.1 Details of the *Testing* process that were.....

5.1.2 The Doping Control form that indicates.....

5.1.3 The A Sample reports, indicating [substances detected in sample]...

5.1.4 The Chain of Custody form from the Doping Control session showing ...

5.1.5 Expert testimony from AB who testified: ...

5.2 The evidence presented by the *Athlete* was as follows: ...

6. Assessment of evidence

.....
.....
.....

(In this section the report may need to comment on the **reliability** of the *Testing* process / results and the **probability** of the *Athlete*’s version.)

7. Finding

The presence of the substances identified as was established by the A *Sample* reports, which were not contested by the *Athlete*. [Decision Limit with unit] [if applicable]. This is in violation of Article 10 of the ETH-NADO Rule.

The *Athlete's* explanation for the presence of the substances was
.....
...

This explanation is a reasonable / unreasonable one because
.....
.....
...

For the reasons outlined above the Committee has determined that the *Athlete* is guilty/or bot guilty of the offences outlined in the charges and is/is not in violation of Article 10 of the ETH-NADO Anti-Doping Rule.

8. Evidence and argument on Sanction

8.1 Principle of Strict Liability (Article ... of ETH-NADO)

8.2 Personal circumstances and explanation/Remorse/Apology

8.3 Reasons for elimination/reduction of period of *Ineligibility* (Article [article number])

8.4 Impact of Sanction

8.5 Reference to precedent – previous decisions

9. Right to appeal

Decisions of the ETH-NADO Disciplinary Panel may be appealed By Athlete..... or Federation or WADA as provided in Article 13.2 through 13.7 of the ETH-NADO's Rule.

10. Decision on Sanction

10.1 Ineligibility until/...../.....

10.1.1 “During the period of *Ineligibility*, in accordance with ETH-NADO, the *Athlete* shall not be permitted to participate in any capacity in a *Competition* or other activity (other than authorized anti-doping education or rehabilitation programs) organized, convened or authorized by:

10.1.1.1 The Federation or by anybody that is a member of, or affiliated to, or licensed by the Federation;

10.1.1.2 Any *signatory* (as that term is defined in the ADR);

10.1.1.3 Any club or other body that is a member of, or affiliated to, or licensed by, a *Signatory* or a *Signatory's* member organization; or

10.1.1.4 Any professional league or any international- or national-level *Event* organization.

10.1.2 Start date of Ineligibility (backdated, if provisionally suspended).

10.2 Disqualification of Results

10.2.1 Pursuant to Article... of the ETH-NADO Rule, any individual results obtained by the Athlete since the date of the violation are hereby disqualified, with all resulting Consequences, including forfeiture of any medals, titles, points and prizes.

Dated at ETH-NADO Office on/...../.....

Signatures of 3 Committee members

1. Name Title
Signature.....
2. Name Title
Signature.....
3. Name Title
Signature.....

**cc: Ethiopia..... Federation,
IF or NADO,
WADA**