

ATTACHMENT 1

AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.R.B.N. 052 258 241
Reg. No. A0004778J

President:
John D. Coates A.O.

Vice Presidents:
Geoffrey J. Henke A.M.
John T. Devitt A.M.

Secretary General:
Craig McLatchey



Level 18
Maritime Trade Towers
207 Kent Street
Sydney NSW 2000
Australia

FACSIMILE

TO: Peter Cassuben
Chief of Staff
Office of the Minister for Sport & Tourism

FAX NO:

FROM: Craig McLatchey

DATE: 10 July 2000

SUBJECT: Proposal for a Sports Doping Ombudsman

No of pages including this one: 7

Attached please find copy of a Proposal for a Sports Doping Ombudsman .

Yours sincerely

Craig McLatchey

File Ref:

This facsimile is intended for the persons named above. If you are not one of those persons, we do not waive any privilege attaching to this facsimile transmission and any disclosure or use of this transmission by you is prohibited. If you have received this facsimile in error, please telephone sender and forward the original facsimile by mail. We will reimburse you for any telephone, postage and handling costs

AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.R.B.N. 052 258 241
Reg. No. A0004778J

President:
John D. Coates A.O.

Vice Presidents:
Geoffrey J. Henke A.M.
John T. Devitt A.M.

Secretary General:
Craig McLatchey



Level 18
The Maritime Centre
207 Kent Street
Sydney NSW 2000
Australia



PROPOSAL FOR A SPORTS DOPING OMBUDSMAN

PROPOSAL FOR A SPORTS DOPING OMBUDSMAN

1. Proposal.

At the instigation of the Australian sports industry, there be created by Commonwealth legislation the position of Sports Doping Ombudsman jointly and equally funded by the industry and Government with powers to receive and investigate all allegations of doping offences and to refer the results of any findings to the appropriate sports organisation for prosecution or to any relevant government authority for implementation.

2. Position Statement.

The sports organisations who are signatories to this proposal have recognised the need to appoint an independent person to whom athletes, players, coaches, officials, members of the public and sports organisations can refer allegations of doping practices within and impacting on sport in Australia. Without an avenue by which allegations can be made without fear of legal repercussions and those allegations fully investigated, the scourge of doping in sport and the provision of performance enhancing drugs to athletes can never be removed.

This independent person is to be known as the Sports Doping Ombudsman.

The Ombudsman's independence from any individual sports organisation or government authority is essential if allegations of doping practices are to thoroughly and impartially investigated with all concerned and the Australian public having trust and confidence in all findings.

The Ombudsman must have the powers to investigate allegations of doping practices, including the power to compel witnesses to attend and give evidence and to produce documents. To this end the signatories have proposed that there be enacted Commonwealth legislation to ensure this independence and provide the necessary powers to enable the Ombudsman to carry out his or her duties throughout Australia.

It is only through Commonwealth legislation that these ends can be achieved.

The Ombudsman is not responsible for the prosecution of doping offences and his or her powers of investigation are not a substitute for the roles and responsibilities of sports organisations to effect the fight against drugs in sport. Sports organisations will remain responsible for anti-doping measures within their individual sports and prosecuting any doping practice contrary to their individual anti-doping policies or codes. Where the commission of a doping practice constitutes a criminal offence, the Ombudsman will refer the matter to the appropriate enforcement agency for prosecution in the ordinary manner.

3. Australian Sports Anti-Doping Code.

Each signatory to this proposal commits to entering and abiding by the Australian Sports Anti-Doping Code that will comprise the following key elements:

- (1) There is no acceptance of the use of drugs in sport.
- (2) Every sports organisation must use its best endeavours and commit appropriate resources to prohibit and prevent the use of drugs in sport and the manufacture and trafficking of performance enhancing substances.

- (3) Each sports organisation is responsible within its own sport for the fight against drugs in sport but recognises the appropriateness of a uniform anti-doping code to be applied equally and equitably to all participants in sport in Australia.
- (4) The fight against drugs in sport requires each signatory ensure that they will not employ, engage, fund, appoint, select or permit the involvement in their sport any officer, official, employee or other person who is found to have engaged in doping or practices associated with doping during the period of any sanction.
- (5) The signatories agree to jointly fund half the total cost of the appointment and engagement of the Sports Doping Ombudsman.
- (6) The signatories agree to recognise and fully support and assist the Sports Doping Ombudsman in his responsibilities and functions.
- (7) Government funding of a sports organisation is to be dependent on it becoming a party to and observing this Code.

4. Sports Doping Ombudsman.

4.1 Creation.

There is to be created by Commonwealth legislation the position of Sports Doping Ombudsman and the Governor General will appoint a person to this position who is experienced and has expertise in respect of the legal issues and practices concerning drugs in sport.

The Ombudsman will hold office for a period of four years from appointment.

4.2 Remuneration and Budget.

The remuneration of the Ombudsman and the budget for the office of the Ombudsman will be determined by the Minister for Sport in consultation with the signatories.

The Government and the signatories will be jointly responsible for funding the remuneration of the Ombudsman and the budgeted costs of the office of the Ombudsman as provided for in the Australian Sports Anti-Doping Code. Any costs of the office of the Ombudsman in excess of those budgeted costs will be borne by the Commonwealth.

4.3 Powers.

The Ombudsman is to be empowered to receive and investigate allegations of doping practices within and impacting on sport in Australia.

“Doping practices” means:

- any doping offence contrary to the anti-doping policy or code of a signatory;
- any breach of the requirements by any person under the Australian Sports Drug Agency Act or Regulations made thereunder; or
- any breach of any law within Australia concerning the manufacture, supply, sale, offer for sale, import or export of any substance prohibited under the anti-doping policies or codes of the signatories.

In investigating any such allegation, the Ombudsman may:

- (1) require and compel any person to:

- (a) give any statement or information, or
- (b) produce any document or other thing, or
- (c) give a copy of any document, or
- (d) answer any question,

provided the Ombudsman must set aside any of these requirements if it appears to the Ombudsman that any person has a ground of privilege, whereby, in proceedings in a court of law, the person might resist a like requirement and it does not appear to the Ombudsman that that person validly consents to compliance with the requirement.

- (2) engage the services of any person for the purpose of getting expert assistance;
- (3) delegate the whole or any part of his investigation to any person with the prior consent of the Minister for Sport;

Where, in an investigation under this Act, the Ombudsman considers that there are grounds for adverse comment in respect of any person, the Ombudsman, before making any such comment in any report, shall, so far as practicable:

- (a) inform that person of the substance of the grounds of the adverse comment, and
- (b) give the person an opportunity to make submissions.

4.4 Protection of Witnesses.

A statement or disclosure made by any witness in the course of giving evidence before the Ombudsman is not (except in proceedings for an offence against the requirement to provide evidence to the Ombudsman) admissible in evidence against that witness in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory

4.5 Investigations.

The Ombudsman may determine not to investigate any complaint or may discontinue any investigation after having regard to:

- (a) such matters as he or she thinks fit;
- (b) without limiting paragraph (a), may have regard to whether, in his or her opinion:
 - the complaint is frivolous, vexatious or not in good faith;
 - the subject-matter of the complaint is trivial;
 - the conduct complained of occurred at too remote a time to justify investigation;
 - the public interest.

4.6 Reporting

- (1) Report to Parliament.

The Ombudsman:

- (a) must, as soon as practicable after 30 June in each year, prepare a report of the Ombudsman's work and activities for the preceding 12 months and furnish the report to the Presiding Officer of each House of Parliament; and
- (b) may, at any time, make a special report to the Presiding Officer of each House of Parliament and must also provide the Minister for Sport with a copy of the report on any matter arising in connection with the discharge of the Ombudsman's functions.

(2) Report to Signatories and Government Authorities.

If, as a result of any investigation, the Ombudsman is of the view that there is sufficient evidence of:

- (a) any doping offence contrary to the anti-doping policy or code of a signatory - then the Ombudsman will report the same in writing to the signatory concerned and the complainant;
- (b) any breach of the requirements by any person under the Australian Sports Drug Agency Act or Regulations made thereunder; - then the Ombudsman will report the same in writing to the Australian Sports Drug Agency, the Minister for Sport and the complainant; or
- (c) any breach of any law within Australia concerning the manufacture, supply, sale or offer for sale of any substance prohibited under the anti-doping policies or codes of the signatories - then the Ombudsman will report the same in writing to the appropriate enforcement agency, the Minister for Sport and, at the Ombudsman's discretion, any other Minister whose portfolio is affected.

- (3) Any report by the Ombudsman as tabled in Parliament will be provided to the World Anti-Doping Agency.
- (4) All reports made by the Ombudsman, even if not laid before a House of Parliament or made public before it is laid before that House will attract the same privileges and immunities as it would if it had been laid before that House.

Signed for and on behalf of the **AUSTRALIAN**)
OLYMPIC COMMITTEE by:)

(Name of Signatory)

Signed for and on behalf of)
by:)

(Name of Signatory)

Signed for and on behalf of)
by:)

(Name of Signatory)

ATTACHMENT 2



AUSTRALIAN OLYMPIC COMMITTEE INC

ARBN 052 258 241

Registered Number A0004778J

SUBMISSION

concerning

Discussion Paper about Proposed Legislation Affecting Australian Arrangements for the Investigation and Hearing of Sports Doping Allegations.

Executive Summary.

The Australian Olympic Committee welcomes the publication of the Discussion Paper as part of a long overdue response to the difficulties encountered over the past decade concerning the investigation of doping offences in sport. In saying this, the AOC notes that over four years has passed since it proposed the creation and establishment of a "Sports Doping Ombudsman" empowered by statute to receive and investigate allegations of doping practices within and impacting on sport in Australia.

The AOC is of the view that the proposed structure of a Board with accredited investigators will result in the unnecessary absorption of resources and funding to the detriment of the fundamental purpose of investigating alleged anti doping rule violations with detrimental effects on flexibility, speed of action, expertise and experience, cost of operation and accountability.

The AOC submits an alternative structure of an empowered individual would better suits the needs and resources of Australian sport.

This being said, the AOC welcomes the Discussion Paper and is generally supportive of the concepts raised.

Issues

The Discussion Paper has been prepared on the assumption that the Sports Doping Investigation Board will be established supported by legislation. In this context eight specific questions are asked. Unfortunately, the Discussion Paper does not address other crucial issues such as:

- 1 Is there an alternative to the Board?

Based on past experience where cases have required investigation, it could be expected that there will be a maximum of between five and 10 doping investigations in any one year. It might be confidently expected that, on average, each investigation would take up between two and three weeks from receipt of information or a

complaint through to the report. This would result in a total annual time expended in investigations of between 10 and 30 weeks.

Subject to overlapping investigations and instances of conflicts of interest, it raises the question of whether it is necessary to appoint a Board of as yet undetermined numbers together with associated resource requirements or, instead, appoint a full or part time individual who would have the responsibilities, powers and functions that are proposed for the Board. Such an individual is not unknown as witnessed by the offices of the Director of Public Prosecutions, the Ombudsman and the Independent Commissioner Against Corruption for NSW.

The AOC has previously suggested the appointment of such an empowered individual. It is submitted that this may have significant benefits that might not be available to a Board, such as flexibility of approach as required by particular matters, speed of action, expertise and experience, reduced cost of operation and accountability.

Such an empowered individual should have the power to appoint an independent investigator should there be a need due to overlapping investigations, conflicts of interest or other appropriate cause.

The AOC's preference is for such an individual to have statutory powers. The following comments must be read in light of this preference.

2 The positioning of the Board within the structure of Government and its agencies.

It is essential that the Board be independent of Australian sporting organisations and Government agencies and affiliates involved in the management of sport, training and supervision of athletes and athlete support personnel. Without this independence, the Board cannot conduct its functions fully and properly and in a transparent manner that will engender the support and confidence of the public, athletes, athlete support personnel, sport administrators and sports organisations.

Whilst accepting that the Board will be ultimately responsible to Parliament through the Minister, the Board must be independent of those organisations whose activities it may be called upon to investigate. Accordingly, the Board must be independent of the Australian Sports Commission, the Australian Sports Drug Agency, the Australian Institute for Sport, State and Territory institutes for sport, and national and State sports organisations.

In the past year and a half there have been at least five investigations¹ into alleged doping practices involving athletes and officials associated with the ASC and AIS. Only one of those investigations was conducted by an employee of the Australian Sports Commission with the remainder being conducted by independent investigators. However, the fact that the independent investigators reported to the Australian Sports Commission resulted in later public criticism of both the investigative process and outcome and suggestions that the investigations were not fully independent of the ASC.

¹ Specific reference is made to the investigation into the allegations by Gaelene Clews concerning alleged trafficking by Stuart Rendell and the investigations by Paul Blaylock, Justin Stanwix and Robert Anderson in the matters arising out of the discovery of the sharps bucket in Room 121 at the AIS facility in Del Monte and the subsequent allegations by Mark French. It is noted that there were additional enquiries into these matters regarding the administration and implementation of the ASC / AIS anti-doping policy and code of conduct.

3 Public Accountability of the Board.

The Board must not only be independent but must be seen to be independent. For this reason the AOC believes the Board must have at least an annual report that is available to the public. This could be achieved by an annual report on its activities in the preceding year to the Parliament. The Board may, if circumstances so warrant, make a special report to Parliament on any matter arising in connection with the discharge of its functions.

4 The Qualifications for Board Membership.

The AOC trusts that it goes without saying that each Board member must be knowledgeable of and experienced in matters relating to drugs in sport and sport administration. The AOC expects that such qualifications will be included within the enabling legislation.

5 The resource requirements of the Board.

The Discussion paper is silent on the resources needed to enable the Board to properly implement its functions and duties.

The AOC is concerned that the Board must be properly resourced in terms of administrative and support staff and office facilities, especially as it is to be independent. However, proper resourcing comes at a cost as discussed below.

6 The funding aspects of the Board and its support resources paying particular regard to the impact of this on existing Government financial assistance of Australian sport.

If the Board is to properly perform its functions then it is essential that it has an appropriate budget to fund its resource requirements.

The AOC calls upon the Australian Government to ensure that this budget and funding is additional to the existing funding provided to Australian sports organisations and facilities. The Government should not reduce or redirect funding for Australian sports and athletes to pay for the Board and its resources.

7 The interaction of its proposed investigative powers with the results management process prescribed in the World Anti-Doping Code.

Article 7 of the World Anti-Doping Code provides that “[e]ach Anti-Doping Organization conducting results management shall establish a process for the pre-hearing administration of potential anti-doping rule violations that respects the following principles:

[Comment: Various of the Signatories have created their own approaches to results management for Adverse Analytical Findings. While the various approaches have not been entirely uniform, many have proven to be fair and effective systems for results management. The Code does not supplant each of the Signatories' results management systems. This Article does, however, specify basic principles in order to ensure the fundamental fairness of the results management process which must be observed by each Signatory. The specific anti-doping rules of each Signatory shall be consistent with these basic principles.]”

Articles 7.1 – 7.4 relate to Adverse Analytical Findings but Article 7.4 of the World Anti Doping Code provides:

“Review of Other Anti-Doping Rule Violations. *The Anti-Doping Organization or other reviewing body established by such organization shall conduct any follow-up investigation as may be required under applicable anti-doping policies and rules adopted pursuant to the Code or which the Anti-Doping Organization otherwise considers appropriate. The Anti-Doping Organization shall promptly give the Athlete or other Person subject to sanction notice, in the manner set out in its rules, of the anti-doping rule which appears to have been violated, and the basis of the violation.”*

It is critical that the investigative role and function of the Board must not compromise or conflict with the obligations on Australian sporting organisations under the World Anti Doping Code.

- 8 The protection of complainants, witnesses, investigators and the Board and its staff from liability arising out of the authorised functions of the Board.

Later in this Submission the AOC supports a requirement that the Board must have the power to compel the giving of evidence and production of documents. It is a corollary of this power and of the exercise of the functions and reporting of the Board’s activities that:

- (a) a statement or disclosure made by any witness in the course of giving evidence in the course of an investigation is not (except in proceedings for an offence against the requirement to provide evidence to the investigation) admissible in evidence against that witness in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory; and
- (b) no civil or criminal proceeding can be brought against the Board, any investigator appointed by it or any member of the Board’s staff as a result of statements made or actions taken in the proper exercise of their functions and the reporting of their authorised activities.

Specific Questions in Discussion Paper

Question 1: Should all Government funded sports be compelled to have allegations investigated by the Board? If not, in what circumstances should a National Sporting Organisation be given an exemption from this requirement? Should specific criteria be spelt out in the legislation?

Not all allegations of anti-doping rule violations require investigation or investigations by the Board of the type envisaged in the paper. An example of such an allegation is an Adverse Analytical Finding and in respect of which the World Anti Doping Code requires a results management investigative procedure to ensure proper analytical procedures were observed.

Further offences against the World Anti-Doping Code include:

- allegations of use or attempted use of banned substances or methods;
- refusal to provide a sample;
- tampering with sample collection processes;
- possession of banned substances;
- trafficking of banned substances; and

- violations of athlete whereabouts requirements.

Dependent on the circumstances, investigations of any of these alleged offences may be conducted within a sport organisation or conducted externally. The special position of team management in respect of teams of athletes and officials must also be recognised and respected.

It is noted that the Discussion Paper proposes the Board investigate:

- (i) the possible use, possession, trafficking or administration by a 'relevant person' of a scheduled drug or doping method;
- (ii) tampering with a sports drug matter;
- (iii) attempting to engage in the conduct referred to in paragraphs (i) and (ii) above; and
- (iv) a 'relevant person' aiding, abetting, covering up, or being otherwise complicit in the conduct referred to in paragraphs (i), (ii) and (iii) above.

This list appears not to include refusal to provide a sample or athlete whereabouts information offences. Allegations concerning these offences may require investigation. In short, the AOC submits the Board should be empowered to investigate all allegations of conduct or activity contrary to the World Anti-Doping Code.

The AOC further submits the proper approach would be to require government funded sporting organisations and agencies (such as the ASC) to utilise the Board for all external investigations unless these are being conducted by the Australian Sports Drug Agency as part of the normal results management process.

It is strongly suggested that, in the interests of transparency and accountability, whenever an allegation is made concerning an anti-doping rule violation in connection with government agencies or government funded facilities, then the agency or facility must utilise the Board to conduct the investigation into the allegation.

Question 2: Are these the appropriate categories of competitors who should be subject to the Board's jurisdiction? The list specified above closely matches competitors potentially subject to testing by ASDA, but also includes athlete support personnel.

There exists the possibility that people other than athletes and athlete support personnel will be involved in trafficking and aiding, abetting, covering up, or being otherwise complicit in anti-doping rule violations. This possibility is underlined by the role of scientists and non athlete support personnel in the Balco affair.

The Board must be able to investigate all persons involved in breaches of the World Anti-Doping Code.

Question 3: Should the person being investigated be told the name of the complainant? Or should the circumstances under which the Board

does or does not disclose the name of the complainant be left as a matter for the Board to determine as one of its procedures?

The identity of the complainant may be relevant to the response of the person or persons being investigated. On the other hand, if the identity of the complainant becomes known, it may lead to improper contact and communications between the person being investigated and the complainant as well as possibly inhibiting people coming forward with complaints.

Because it is a balancing act, the AOC believes this is a matter best left with the Board to determine as one of its procedures.

Question 4: Should the Board be required to release reports publicly, where a person is found to have a case to answer, where a person is found to have no case to answer or in both situations?

This is not simply an issue regarding public reporting on a case, but also raises the issue of the frequency of the Board's reports.

The AOC is of the view that the Board should report on all its investigations. It may well be that the fact of an investigation is publicly known and publication of the fact that there is no case to answer is therefore in the interests of the person concerned. The Board:

- (a) must, as soon as practicable after 30 June in each year, prepare a report on its activities for the preceding 12 months, which report is be provided to the Presiding Officer of each House of Parliament; and
- (b) may, at any time and in its discretion, make a special report to the Presiding Officer of each House of Parliament and must also provide the Minister for Sport with a copy of the report on any matter arising in connection with the discharge of the Board's functions.

If, as a result of any investigation, the Board is of the view that there is sufficient evidence of:

- (c) any anti doping rule violation contrary to the World Anti Doping Code then the Board must report the same in writing to the sports organisation (s) concerned and the complainant;
- (d) any breach of the requirements by any person under the Australian Sports Drug Agency Act or Regulations made thereunder; - then the Board must report the same in writing to the Australian Sports Drug Agency, the Minister for Sport and the complainant; or
- (e) any breach of any law within Australia concerning the manufacture, supply, sale or offer for sale of any substance prohibited under the World Anti Doping Code – then the Board must report the same in writing to the appropriate enforcement agency, the Minister for Sport and, at the Board's discretion, any other Minister who's portfolio is affected.

Any report by the Board as tabled in Parliament will be provided to the World Anti-Doping Agency.

All reports made by the Board, even if not laid before a House of Parliament or made public before it is laid before that House will attract the same privileges and immunities as it would if it had been laid before that House.

Question 5: At what point in the investigation process should the Board be able to release information publicly? Should the legislation provide specific rules about the public release of information or reports?

A Board report on an investigation should be only released at the conclusion thereof unless there is a compelling reason otherwise in the opinion of the Board – as occurred in the recent investigations by R Anderson QC.

Question 6: What restrictions should be placed on information passed between Agencies.

The Discussion Paper includes the proposal “that Customs information would be passed initially to the Board, which would have discretion as to whether to pass that information on to the ASC or a sporting organisation. In some cases, the Board may decide to investigate the matter first and decide to only pass on information in the event that the competitor is found to have a case to answer. This procedure would be designed to ensure that raw Customs information, which can cause substantial damage to a person's reputation, is not released while inquiries are undertaken.”

This proposal deals only with information emanating from Customs. Confining its response to such information, the AOC reiterates its belief that sporting organisations should not be compelled to use the Board except where the sporting organisation proposes to utilise external investigation. The AOC is agreeable to the Board being the sole recipient of information from Customs but submits that this information must then be communicated to the sporting organisation(s) concerned, which then determines whether to request the Board to conduct an investigation.

The Board should only commence an investigation on receipt of a request from a sporting organisation or a complaint.

Question 7: Should the Board be given these powers of compulsion, given the Board will not be involved in investigating criminal activity and the results of an investigation will not be considered by an Australian court? If so, should any limitations be placed on the circumstances in which the Board can exercise the power(s)?

The AOC submits that the Board must have the power to compel the giving of evidence and production of documents. Absent such powers, it would be too easy for investigations into the majority of alleged anti-doping rule violations to result in findings of “not proven” rather than “proven” or “dismissed”.

As is the case before Royal Commissions where similar powers of compulsion exists, provision must be made in regard to:

- (1) preservation of privilege;
- (2) the inability to use admissions in criminal prosecutions; and

- (3) admissibility of evidence generally in subsequent sporting tribunals and civil court proceedings.

Question 8: Would there be benefits in having an accreditation process for investigators along the lines outlined above

The AOC is of the view that an empowered individual is preferable to the structure of a Board, Board staff and accredited investigators. In particular, the AOC foresees the substantial risk that the Board and its resources would be squandered in managing this structure rather than being more efficiently spent on the investigation of alleged anti doping rule violations.

A particular use of resources would occur in processing, reviewing and issuing accreditations to investigators. This bureaucratic absorption of limited resources without directly furthering investigations in anti doping rule violations is not in the best interests of Australian sport.

This being said, if the Board structure is adopted, then there needs to be a process for appointing a defined number of suitably qualified investigators. To this end, an accreditation process is necessary although the issue will be to minimise the associated use of limited resources and to thereby minimise the cost of the accreditation process.

20 December 2004

JOHN D COATES
President

From:
Sent: Thursday, 23 June 2005 2:46 PM
To:
Subject: FW: AOC Media Release on ASADA

Senator the Hon Rod Kemp
Minister for the Arts and Sport
Parliament House
CANBERRA ACT 2600

Dear Rod

Your announcement this morning is one that I believe to be very much in the interests of Australian sport. As you will see from the attached press release, I have publicly welcomed and supported your initiative in this regard.

Obviously over the next six or so months there will be the need to develop the detailed legislation and rules and policies that will govern ASADA's existence and functions. In this regard I have noted that the various documents released today are silent on the proposed ability of ASADA to require athletes and third parties to give evidence in respect of alleged anti-doping rule violations. You may recall that this was a key factor in the AOC's call for a Sports Doping Ombudsman in June 2000 following the Werner Reiterer allegations. I am sure you will share with me a desire that any investigative body must have the power to not only seek the truth, but also compel people to give necessary evidence to ensure the truth is ascertained.

There will obviously be many other matters that will have to be addressed and I look forward to working with you over the next few months in this regard.

With kind regards,

Yours sincerely

John Coates

The Australian Olympic Committee wishes to thank its sponsors for their generous support:

Coca Cola - McDonalds - Atos Origin - Omega - General Electric - Panasonic - Kodak
Samsung - Lenovo - Manulife - Visa

Accor - Australia Post - Qantas - Telstra - Hamilton - Chifley

Suppliers: Getty Images - Hudson - Schure Sports / Karbon - XTM - Sportsworld

Important: This email is intended for the above named addressee only and is confidential. If this has come to you in error, you must take no action based on it, nor must you copy or show it to anyone. Please return to sender and delete your copy.

ATTACHMENT 4



MEDIA RELEASE

JUNE 24 2005

AOC SUPPORTS NEW ANTI-DOPING BODY

John Coates, the President of the AOC, today welcomed the announcement by the Minister for Sport, Senator Rod Kemp, concerning the creation of the Australian Sports Anti-Doping Authority ('ASADA').

ASADA will, in effect, combine the present anti-doping functions of the Australian Sports Commission with the functions of the Australian Sports Drug Agency and, in addition, will have powers of investigation and prosecution of anti doping rule violations.

John Coates stated: "While we are yet to see the detail of the proposal, the matters outlined today by the Minister are a significant step in the right direction".

"The recent experience of the United States Anti-Doping Agency regarding the BALCO matter has underlined the need for a national body with wide ranging powers to deal with all aspects of drugs in sport."

"With one body to be responsible for Australia's anti-drugs in sport regime, there promises to be a unified and effective approach to the betterment of Australian sport and our athletes. I am sure that when the detail is developed over the coming months, ASADA will be given appropriate powers to ensure it can fully and effectively fulfil its promise" he said.

As long ago as June 2000, the AOC sought the creation of a body with full investigative powers enabling it to acquire evidence into all allegations of doping offences.

"I am heartened that ASADA's independence will be assured, whilst noting at the same time that it will be subject to independent and external review if it is alleged to have transgressed. There will presumably be additional internal rules and policies to minimise, if not eliminate, the chance of any such transgressions occurring" Coates said.

FOR MORE INFORMATION PLEASE CONTACT MIKE TANCREDD AT THE AUSTRALIAN OLYMPIC COMMITTEE ON 02 84362100 OR 0412 330274



SENATOR THE HON ROD KEMP

Minister for the Arts and Sport

Mr John Coates
 President
 Australian Olympic Committee
 PO Box 312
 ST LEONARDS NSW 1590

28 JUL 2005

Dear Mr Coates

Thank you for your email of 23 June 2005 regarding my announcement that the Australian Government will establish a new Australian Sports Anti-Doping Authority (ASADA).

The ASADA model was developed after careful consideration by the Australian Government, including extensive consultation with sporting agencies and organisations. In particular, the Government took careful note of the Australian Olympic Committee's (AOC's) submission to the Department of Communications, Information Technology and the Arts discussion paper about proposed legislation affecting Australian arrangements for the investigation and hearing of sports doping allegations. I am pleased that the AOC has welcomed the ASADA announcement and would like to thank you for your public support of this initiative.

I note your views on whether ASADA should have the ability to require athletes and third parties to give evidence in respect of alleged anti-doping rule violations. The Government will ensure that ASADA will have sufficient powers to carry out its important functions. These will include:

- the power to receive, use and disclose information from the Australian Customs Service and other law enforcement agencies;
- the ability to publish its findings, and immunity from prosecution on the basis of these publications;
- the ability to report to the Australian Sports Commission (ASC) on any failures by sports to comply with the World Anti-Doping Code or submit to ASADA's jurisdiction (such breaches would then be penalised through the ASC's funding agreements with sports); and
- the ability to give privilege from prosecution to parties providing evidence.

The Government does not believe it is necessary at this stage for ASADA to have the legal power to compel witnesses to appear before it or require that information be given to it. Such powers could be construed as excessive, and would not be in keeping with international precedents. Further, such powers of compulsion would exceed the powers of the Court of Arbitration for Sport, which could create a situation in which ASADA's powers exceeded those of the tribunal hearing a particular case, leading to possible procedural difficulties.

The Government will require sports to ensure that their members and staff fully cooperate with ASADA, as a condition of Australian Government funding or other support. A refusal by any athlete or athlete support personnel to cooperate with an ASADA investigation will be

dealt with under the relevant sport's anti-doping policy and an appropriate sanction imposed on that person.

I am confident that ASADA's powers will enable it to perform its functions properly. However, if the lack of powers to compel evidence or witnesses becomes a significant operational problem for ASADA, the Government will reconsider this issue.

Thank you for your worthwhile contributions to the Government's consideration of the issue of sports doping investigations and hearings in Australian sport. I look forward to working closely with you and other stakeholders in ensuring the success of ASADA.

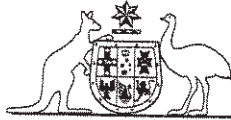
Yours sincerely

ROD KEMP

ATTACHMENT 6
AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.B.N. 33 052 258 241

President:
John D Coates AO



Level 27
The Chifley Tower
2 Chifley Square
Sydney NSW 2000
Australia

10 August 2005



Senator the Hon Rod Kemp
Minister for the Arts and Sport
Parliament House
CANBERRA ACT 2600

FAXED

Dear Minister *Rod,*

I write in response to your letter of 28 July 2005 and, in particular, because of your statements that the legal power to compel witnesses to appear before the Australian Sports Anti- Doping Authority or to be given information:

- “would exceed the powers of the Court of Arbitration for Sport”;
- “would not be in keeping with international precedents”; and
- “could be construed as excessive”.

The first two aspects are factual whilst the third is a matter of opinion. I believe all to be wrong.

It is true that in Australia, arbitral bodies such as the Court of Arbitration for Sport, do not of themselves have the above powers of compulsion. However, this is moot because parties appearing in matters before CAS have the power in all States and Territories to issue subpoenas out of the Supreme Court for witnesses to either attend before CAS and give evidence or to produce documents or both to give evidence and produce documents. The authority for the issue of these subpoena is the Commercial Arbitration Act which is uniform throughout each State and Territory and subpoenas may be addressed to witnesses even if they are not parties to the CAS proceeding.

This fact is well known to your advisers at the Australian Sports Commission, as witnessed as recently as June in the Mark French proceeding. Since at least 1999, the AOC has issued subpoenas on various occasions compelling individuals to give evidence to CAS.

I might add, as an aside, that this power does not exist in respect of an ordinary sports disciplinary tribunal and is one of the key reasons why the AOC supports and promotes the use of CAS over such internal tribunals. I remind you that I have previously advised you of this fact and opinion.

The position overseas with regard to CAS is different. For example, in the USA Article 7 of the Federal Arbitration Act expressly authorises arbitrators to “*summon in writing any person to attend before them or any of them as a witness and in a proper case to bring with them any book, record, document or paper which may be deemed material as evidence in the case.*” Accordingly, CAS arbitrators in the USA can themselves compel the giving and production of evidence.

I am also sure your advisers must be aware that USADA referred the BALCO matter to the Inland Revenue Service and a grand jury investigation and that it was only as a direct consequence of those referrals that the evidence emerged of systematic doping of athletes under BALCO supervision and the supply of drugs to athletes in contravention of USA law.

It appears to me to be short sighted to ignore the lessons of the BALCO matter where the shortcomings of the investigative powers of USADA were highlighted and only overcome through the utilisation of the criminal and taxation prosecution system to gather evidence.

The importance of having evidence before commencing doping cases was recently stressed by the General Counsel of USADA, Travis Tygart, following the recent AAA case of **USADA v Hamilton**:

"Our interest is only justice, we don't blindly bring doping cases. We look at the evidence, and if we think there is enough evidence to go forward we present that to an arbitration panel."

It is illogical and bad practice to rely on unknown evidence that may emerge during a hearing – be it criminal or civil. The evidence must be known beforehand and properly assessed by those responsible for any prosecution. It is for this very reason that in the field of corporate crime, ASIC has its powers to obtain search warrants and to compel the giving of evidence under section 19 of the ASIC Act.

Given there is the power to compel the giving of evidence and production of documents before CAS, the application of this principle means that ASADA should have the corresponding power during its investigations.

If this power is excessive, then I ask why the ASC deemed it necessary and appropriate to include in the AIS Athlete Scholarship Agreement the powers for the AIS to:

- search premises occupied by athletes without any prior notice;
- seize "any goods, materials, documents, electronic information or substances found" during such searches,
- use the results of the search and/or seizure against the athlete in any investigation or proceeding;
- disclose the results of the search and/or seizure to any law enforcement agency of named sports administration bodies?

Further, in the investigations into the Mark French allegations of last year, the AIS athlete scholarship holders were required to truthfully answer questions of the investigators with a failure to do so being a breach of their AIS Scholarship Agreement.

Clearly your advisers at the ASC consider that the powers to compel athletes to give evidence and search athlete premises and seize athlete property are not excessive when directed at AIS scholarship holders. If this is the case, and given the support out of the public purse for all national and international level athletes, it appears to me to be a retrograde step for you to endorse differing obligations based solely on whether an athlete holds or does not hold an AIS scholarship.

In summary, I believe you have been wrongly advised as to the powers to compel the giving of evidence to CAS, the true nature of what is happening overseas and the need for proper and appropriate investigative powers in cases of possible non-analytical anti-doping rule violations.

Yours sincerely

JOHN D COATES

cc: Richard Pound QC, Chairman – World Anti-Doping Agency
Peter Bartels AO, Chairman – Australian Sports Commission
Mark Peters, CEO – Australian Sports Commission

ATTACHMENT 7



SENATOR THE HON ROD KEMP

Minister for the Arts and Sport

Mr John D Coates AO
President
Australian Olympic Committee
Level 27
The Chifley Tower
2 Chifley Square
SYDNEY NSW 2000

20 DEC 2005

Dear Mr ~~Coates~~

Thank you for your letter of 10 August 2005 regarding the new Australian Sports Anti-Doping Authority (ASADA). As you will be aware, I asked Richard Ings, ASDA CEO, to discuss this matter with you and I understand that this has happened.

The Government recognises the strong support the AOC has given to the establishment of ASADA. We look forward to working closely with the AOC as ASADA comes into operation in 2006. On the specific issue of compelling witnesses to give evidence or provide documents, I also asked Richard Ings to examine this matter closely. Mr Ings confirmed advice I had received from my Department and conveyed to you previously.

From an international perspective, I note that Mr David Howman, Director General of the World Anti-Doping Agency (WADA), has advised that WADA supports the Government's decision not to provide ASADA with powers of compulsion. Further, I am advised that leading countries in anti-doping practice, including the US and New Zealand, have deemed it unnecessary for their NADOs to have direct powers to compel witnesses and evidence.

Nevertheless, we will monitor the operations of ASADA and will consider further legislative change if there are practical issues which impede its effective operation.

Thank you for your ongoing interest in this matter.

Yours sincerely

ROD KEMP

ATTACHMENT 8

AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.B.N. 33 052 258 241

President:
John D Coates AO



Level 27
The Chifley Tower
2 Chifley Square
Sydney NSW 2000
Australia



12 January 2006

Dr Ian Holland
Secretary
Legislation Committee
Environment, Communications, Information Technology and the Arts,
Australian Senate
Parliament House
CANBERRA ACT 2600

Dear Dr Holland

AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY BILL 2005
AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 2005

I acknowledge receipt of your letter of 12 December 2005 and thank you for the opportunity to make this submission in respect of the above Bills. Because the AOC believes this matter is of crucial importance to Australian sport, this letter will be published to all AOC member sports, member State Olympic Councils and recognised Olympic Training Centres. It will be posted on the AOC website for public consumption.

At the outset, I reiterate the support of the Australian Olympic Committee for the creation and operation of the Australian Sports Anti-Doping Agency ('ASADA') as the sole national anti-doping organisation for Australia in lieu of the current undesirable division of roles and responsibilities between the Department of Communication, Information Technology and the Arts, the Australian Sports Commission and the Australian Sports Drug Agency ('ASDA').

However, the AOC's support for ASADA is, and always has been, subject to the adoption and implementation of appropriate powers and checks and balances to enable ASADA to properly perform its functions whilst ensuring the proper protection of the rights and roles of Australian sports organisations athletes and athlete support personnel.¹

I note that the Australian Sports Anti-Doping Authority Bill appears to have been sourced from the Australian Sports Drug Agency Act 1990. Whilst this is understandable, I believe this approach:

- 1 does not provide for the separation of the proposed ASADA functions and powers concerning:
- (1) policy making;
 - (2) administration;

- (3) investigation; and
 - (4) prosecution;
- 2 has failed to address the significant issue of the reasons for and status the Register to be maintained under section 13(1)(i) of the Bill;
 - 3 has failed to provide ASADA with necessary and appropriate investigative powers; and
 - 4 has resulted in the adoption of definitions different from, and therefore potentially conflicting with, the definitions in key documents such as the World Anti-Doping Code and the UNESCO Anti-Doping Convention.

I now address each of these points.

- (1) Section 21 provides that ASADA's functions include those conferred under Part 2 and the NAD Scheme. Whilst this appears repetitious, sections 9 and 10 provide that the NAD Scheme must concern the implementation of the two Anti-Doping Conventionsⁱⁱ and "ancillary or incidental matters". ASADA will have the power to amend the NAD Scheme by legislative instrument.

Whilst the initial NAD Scheme is by way of regulations, when regard is had to section 10(1) and the Legislative Instruments Act 2003, it is apparent that ASADA will have the power to itself amend the NAD Scheme. Consequently, ASADA will have the power and ability to itself determine its own functions with the only limitation being a legal challenge that its interpretation of these functions is outside the parameters described above.

The AOC is concerned at any body having such a power.

- (2) When Senator R Kemp, the Minister for Sport, announced the creation of ASADA on 23 June 2005, he stated that ASADA would have the current ASDA functions, the policy development, approval and monitoring roles of the ASC and "will deal with all allegations of anti-doping rules violations outlined in the World Anti-Doping Code." As part of this latter aspect, the Minister stated that, where appropriate, ASADA "will also prepare and present cases to the Court of Arbitration for Sport and other sports' tribunals."

This is a substantial expansion of the current functions of ASDA and it is submitted that there has been an approach in the Bill of simply following past ASDA practice and rules without proper consideration of the appropriateness thereof to ASADA, potential legal consequences and the impact on persons alleged to have committed anti-doping rule violations ('ADRVs').

This is particularly the case with the Register and the separation of the investigation and prosecutorial functions.

- (3) ASDA does not presently prosecute alleged ADRVs. Rather, and in simplistic terms, it is responsible for sample collection, arranging sample analysis and advising relevant sports organisations of the results. The sports organisations are then responsible for prosecuting the offence against their anti-doping rules.

In this environment the Register of Notifiable Events serves a useful function recording the results of ASDA's activities. Entry on the Register though is irrelevant to the

prosecution of an athlete for an ADRV by a sports organisation.ⁱⁱⁱ Because ASDA does not prosecute, the Register is not designed to take into account the outcome of any prosecution.

However, ASADA will now conduct the prosecutions of ADRVs.^{iv} Surely what will be relevant to ASADA and the athlete concerned is not the entry on the Register, but rather the outcome of the prosecution of the ADRV and the imposition of any sanction.

A Register that simply records the possibility of an ADRV serves no useful purpose. Rather, the Register should record proven ADRVs – i.e. those ADRVs successfully prosecuted by ASADA before the Court of Arbitration for Sport or other sports tribunal.

As proposed, the Register can only be a record of possible ADRVs, not proven or established ADRVs. The expanded number of ADRVs that are proposed to be included in the Register under the Bill alone makes this proposal unworkable. This Register and the associated right of appeal to the Administrative Appeals Tribunal ('AAT') has the potential to make the AAT the de facto anti-doping tribunal for Australian sport and the proposal fails to address:

- how sanctions are to be imposed on athletes who are found to have committed ADRVs;
- the right for persons, other than ASDA and the athlete concerned, to be heard; and
- the obligations on sporting organisations under the World Anti-Doping Code to provide for appeals to the Court of Arbitration for Sport at both international and national levels under Article 13 of the Code;

amongst other things.

The AOC does not support the AAT becoming the de facto anti-doping tribunal as may well be the case under the provisions of the Bill.

- (4) The AOC is concerned that the proposed entry on the Register of possible ADRVs could lead to a diversion of resources of both ASADA and the athlete through the appeal process to the AAT. The AAT process essentially gives an athlete "two bites of the cherry" to challenge allegations of a possible ADRV. As is the current situation with sports organisations and ASDA, entry on the Register will be irrelevant in the prosecution of ADRVs by ASADA as it will be bound to prove all the elements of the alleged ADRVs. Even if an athlete has challenged an entry in the Register before the AAT, there is nothing to prevent the athlete making the same challenges to the Court of Arbitration for Sport or other sports tribunal, depending which body is hearing the allegation. The body hearing the allegation is not bound by any determination of the AAT.

The AOC has raised this concern of duplication of hearings and waste of resources with ASDA. ASDA's response has been to refer to rules 68 - 70 of the Leagues Anti-Doping Rules adopted by the National Rugby League and the Australian Rugby League where it is provided that a player:

- may not challenge an entry on the Register except before the AAT; and

- may not dispute any findings or decisions made by the AAT, or the Federal Court on appeal from the AAT.

The AOC accepts that this resolves the current situation for that sport. It is submitted that if such a provision is appropriate, then it should be part of the legislative and regulatory framework and therefore apply to all sports and not be dependent on sports organisations including it in their individual anti-doping policies.

- (5) When the AOC raised its concerns regarding the right of appeal to the AAT, ASDA responded as follows:

DCITA have spoken to Sue Bromley in AGs who was involved with providing AGs comments on the Discussion Paper in 2004. In brief, her key points were:

- *AAT appeal right is an existing right and there would need to be a convincing policy reason to remove;*
- *AAT appeal right is a domestic right (as opposed to the CAS appeal process through an international body). Sue asked whether we had consulted DFAT and indicated that they may have a view on the removal of an existing domestic appeal right. Sue was concerned that decisions made by ASADA be subject to some form of review by an appropriate Australian body;*
- *Following on from the above point, it is standard practice for government decisions which may adversely affect an individual to be subject to merits review. Again, we would need to have a very clear and strong justification for removing.*

Sue also indicated that the Scrutiny of Bills Committee would pick up on any amendment to/removal of the AAT clause and would need to be convinced that it would not negatively impact on the rights of individuals.

In response to these points, I comment:

- (a) As discussed above, the right of appeal to the AAT currently arises out of the ASDA entry on the Register independent of any prosecution of an ADRV. This will not be the case under the ASADA regime.
- (b) With the possible exception of New Zealand, the AOC is not aware of any similar Register of possible ADRVs anywhere else in the world. The AOC understands that the New Zealand Sport Drug Agency operates in the same manner as does ASDA, so the New Zealand regime is irrelevant for future ASADA purposes.
- (c) With an entry on the Register being merely a record of a possible ADRV, it will essentially record a decision that there exists a prima facie case to prosecute. Precedent exists that “*decisions to prosecute persons for any offence against a law of the Commonwealth, a State or a Territory*” are excluded from the operation of the Administrative Decisions (Judicial Review) Act 1977^v. Whilst accepting that an ADRV is not a criminal offence, many cases before the Court of Arbitration for Sport have recognised the seriousness of a doping allegation with the application of a consequent standard of proof.^{vi} It is submitted that the same considerations would apply concerning decisions to prosecute ADRVs as to the prosecution of criminal offences.

- (d) If the Register as a record of possible ADRVs is discarded together with the associated right of appeal to the AAT, there is no detriment to the athlete, for ASADA will still have to prove the occurrence of the ADRV before the Court of Arbitration for Sport or the appropriate sports tribunal. The athlete must be accorded natural justice in that hearing.
 - (e) If the purpose of the proposed Register and associated right of appeal to the AAT is simply because "that is the way it has been done to date", then it is submitted that this is inadequate. The AAT only has jurisdiction where this is so provided in an enactment.^{vii} If there is to be such an enactment, there should be a better and more cogent analysis and reasoning than that advised to the AOC and reported above.
- (6) The regime proposed under the Bill authorises ASADA to investigate all anti-doping rule violations ('ADRVs'). These ADRVs are not limited to adverse analytical findings^{viii}, but include the seven other ADRVs provided for under the World Anti-Doping Code and also listed in the UNESCO Anti-Doping Convention.^{ix} Once an investigation is complete, ASADA will then alone determine whether to enter the name of the athlete or athlete support personnel on the register for the offence in question. This initial determination is prior to any notification to the athlete or opportunity to be heard. The Bill does not describe the standard of satisfaction or belief that ASADA must reach before arriving at this initial determination. It is only after this decision making process that ASADA is bound to notify the athlete concerned and give that athlete an opportunity to make written submissions about the proposed entry on the register.^x Based on the written response and without the need for any hearing and adjudication independent of the investigation, ASADA then determines to enter the athlete's name on the register. It is only at that stage that the athlete has the right to compel a hearing before the Administrative Appeals Tribunal.

This regime reflects the current ASDA process in respect of adverse analytical findings and refusals to provide samples. It ought not be adopted by ASADA for the investigative process is considerably greater for the non analytical ADRVs and the potential for loss and damage to an 'innocent' athlete is much greater. Under the proposed regime, ASADA will be the investigator, prosecutor, judge and jury unless and until challenged before the AAT. The AOC submits that this would be a potentially serious breach of the rules of natural justice – the cornerstone of which is that "*justice should not only be done, but should manifestly and undoubtedly be seen to be done.*"^{xi}

In *Rush v WA Amateur Football League (Inc)*^{xii}, His Honour, Hasluck J stated:

When charges of misconduct are advanced there is generally an assumption that the party preferring the charges holds a bona fide belief that there is substance in the allegations and that a verdict of infringement is appropriate. It is therefore clearly undesirable that a person charged with the responsibility of resolving the dispute by an impartial consideration of evidence bearing upon the charges should play any part in the formulation and advancement of the charges in question. This could give rise to a reasonable apprehension of bias which is inconsistent with a proper application of the rules of natural justice. Further, if the adjudicator has played a part in formulating the charges then it might be thought that if any procedural issue arose as to duplicity or some other flaw in the charges then the adjudicator could not bring an unbiased mind to the resolution of such a controversy. He would appear to have an interest in defending the sufficiency of his own handiwork in formulating the charges.

The proposed regime infringes the separation that Hasluck J clearly believed to be necessary if allegations of a breach of natural justice are to be avoided.

The AOC instead suggests that ASADA should prosecute all alleged ADRVs before an independent tribunal and only make entries in the register should the tribunal find the allegations proved or the athlete earlier admit the ADRV. This would further accord with the obligations of sports organisations under Article 3.1 of the World Anti-Doping Code^{xiii} to prove the occurrence of an ADRV to a standard equivalent to the well known Briginshaw Test^{xiv}.

The UNESCO Anti-Doping Convention requires the States Parties to *commit themselves to the principles of the [World Anti-Doping] Code*. The principles of natural justice are one of the key principles in the Code.^{xv}

- (7) Whilst noting Senator Kemp's above statements concerning ASADA prosecuting ADRVs, I note that section 13(1)(k) of the Bill states that the NAD Scheme must:

“authorise the ASADA to present:

- (i) findings on the register mentioned in paragraph (i); and*
- (ii) the ASADA's recommendations as to the consequences of such findings;*

at hearings of the Court of Arbitration for Sport and other sporting tribunals, either:

- (iii) at the request of a sporting administration body; or*
- (iv) on the ASADA's own initiative: ...”*

This wording does not appear to accord with a commitment for ASADA to prosecute ADRVs. Rather, it appears to reflect a lesser commitment related solely to the Register.

- (8) Whilst ASADA will be empowered to investigate allegations of ADRVs, the Bill is silent on the nature and extent of any powers in this regard.

The AOC's views in regard to the need for proper investigation of alleged doping offences and practices are not new. Since 2000, the AOC has submitted to the Minister that there has been a need for a independent person to be known as the *'Sports Doping Ombudsman'* *“with “powers to investigate allegations of doping practices, including the power to compel witnesses to attend and give evidence and to produce documents.”*

Clearly the creation of ASADA as a body independent of Australian sports organisations with investigative powers has removed the need for such a person. However, the extent of the investigative powers are a different matter.

Attached to this letter are copies of:

- my e-mail of 23 June 2005 to Senator R Kemp;
- the Minister's response dated 28 July 2005;

- my letter to Senator Kemp of 10 August 2005; and
- the Minister's response thereto dated 20 December 2005.

Sports organisations have the power to compel their member or employee athletes to co-operate with investigations as a matter of contract. Outside this contractual relationship, they have no power to compel the giving of any evidence.

The AOC is committed to opposing and, if possible, eliminating, the scourge of cheating in sport through the use of drugs and prohibited methods. AOC experience is that without the power to compel the giving of oral and documentary evidence, many allegations of ADRVs cannot be properly investigated and prosecuted.

In support of this view I cite merely two examples:

(a) Werner Reiterer.

Reiterer was an Australian Olympic athlete who retired from competitive athletics in late 1999 or early 2000. In July 2000, he published his book entitled "Positive" which contained admissions of doping by him as well as allegations of doping by many Australian athletes and collusion by sports officials.

The AOC and Athletics Australia initially appointed Justice Trish Kavanagh to investigate these allegations, although she was unable to make any headway due to Reiterer's refusal to appear before her or provide any evidence. Based on the admissions and allegations of doping made in the book, the AOC then commenced proceedings against Reiterer in the Court of Arbitration for Sport ("CAS"). To compel his attendance, the AOC issued a Subpoena to Produce Documents and Give Evidence out of the Supreme Court by virtue of section 17 of the Commercial Arbitration Act (NSW) 1984.

Reiterer applied to have the Subpoena set aside on the grounds that CAS did not have any jurisdiction over him as he was no longer a competitor in the sport of athletics. Following advice from H Nicholas QC,^{xvi} the matter was settled on confidential terms.

(b) BALCO

As I stated in my letter of 10 August 2005, following the initial "whistleblower" advice, the Bay Area Laboratory Organisation matter was only progressed through the IRS and a grand jury investigation. Documents were obtained through a raid of the BALCO premises by the FBI and "the use of subpoenas and other law enforcement mechanisms" and the US Senate.^{xvii}

In its subsequent prosecutions of Tim Montgomery and Chryste Gaines, the Court of Arbitration for Sport found both these athletes had committed ADRVs based on the evidence of another athlete, Kelli White. Ms White gave evidence after having herself been earlier found to have committed an ADRV as a result of the BALCO investigations.

In other words, the successful outcome of the BALCO case concerning athletes was almost entirely built on the foundation of coercively acquired evidence.

The argument used to be whether Australian media laws would prevent a Watergate exposure in Australia. Will we asking whether Australian sports laws (or more accurately the lack thereof) will prevent a BALCO exposure in Australia?

The AOC accepts that coercive investigative powers involve a balancing of rights. The AOC believes that this balance can be achieved through:

- (i) requirements that:
 - a person may refuse to give oral or documentary evidence on the grounds of privilege whereby, in proceedings in a court of law, the person might resist a like requirement;
 - a statement or disclosure made by any witness in the course of giving evidence before ASADA is not (except in proceedings for an offence against the requirement to provide evidence to ASADA) admissible in evidence against that witness in any civil or criminal proceedings in any court of the Commonwealth, of a State or of a Territory; and
 - a person making any statement or publication to ASADA in the course of investigation has absolute privilege against a suit for defamation;
- and
- (ii) review of these safeguards under either the Administrative Appeals Tribunal Act or the Administrative Decisions (Judicial Review) Act.

- (9) The Australian Sports Drug Agency Act 1990 has, as a key concept, the definition of “competitor” dependent on competing in a sporting competition or training to so compete.^{xviii} Drug testing schemes apply to competitors.^{xix}

In contrast, the Bill focuses on “athletes” – a term that is defined by reference to participation in a sporting activity. This raises the possibility of a lawyers’ banquet in that “sporting activity” is not defined and is a term that is not used in the World Anti-Doping Code nor the two Conventions. In the Code, an athlete is defined by reference to participation in sport at different levels.^{xx} In the General Anti-Doping Convention, the term ‘sportsmen and sportswomen’ is defined as “*those persons who participate regularly in organised sports activities.*”^{xxi} The UNESCO Anti-Doping Convention follows the Code definition in defining an athlete as “*any person who participates in sport ...*”^{xxii}

The use of “sporting activity” rather than “sport” is, I presume, deliberate.^{xxiii} Whilst there is debate as to what is meant by “sport”, it is clearly narrower in meaning than “sporting activity”. I am unsure what exactly is intended by the use of the word “sporting” as an adjective to the noun “activity” as opposed to “sport” as a noun or “sports” as the adjective to “activity”.

“Sporting” is relevantly defined in the Australian Concise Oxford Dictionary as an adjective meaning:

“1 interested in sport (a *sporting man*) 2 sportsmanlike, generous (a *sporting offer*) 3 concerned in sport (a *sporting dog*; *sporting news*)”

“Sport” is relevantly defined as a noun meaning:

“1 a a game or competition activity, esp. an outdoor one involving physical exertion, eg cricket, football, racing, hunting. b such activities collectively (*the world of sport*) 2 (in pl) a a meeting for competing in sports, esp. athletics (*school sports*) b athletics”

In my opinion a “sporting activity” does not mean the same thing as a “sports activity” or “sport”. This difference is compounded when all that is required is participation in a sporting activity rather than participation in sport.

By way of example, pole dancing is not recognised as a sport, yet participation in pole dancing is participation in a sporting activity.

I submit the AOC’s views are supported by the words of the Bill itself, for “sporting competition” is defined as meaning a “sporting event or series of sporting events with “sporting event” being defined in turn as including a “sporting activity”.

It must be asked what was intended by the draftsman in using these particular phrases in lieu of the terms used in the World Anti-Doping Code and the two Conventions and the current ‘competitor’ approach under the Australian Sports Drug Agency Act? What will the consequences be for Australian sport? Will it possibly lead to a challenge to the constitutional basis for the Australian Sports Anti-Doping Authority Act, once the Bill is proclaimed and any NAD Scheme made thereunder?

- (10) There are possible scenarios under the Bill that could create issues for Australian National Federations (NFs). Under the international structure of sport, NFs are bound first and foremost by the rules and regulations of their International Federations (IFs). As demonstrated by the Advisory Opinion of the Court of Arbitration for Sport in **CONI v Union Cycliste Internationale**^{xxiv}, the IF has the primary authority to prescribe the anti-doping rules of its sport and, in the event of a conflict, the anti-doping rules of an IF prevail over the rules enacted by an NOC or another national sports authority. Whilst that decision pre-dates the World Anti-Doping Code, I have no reason to doubt that the IFs would still regard it as valid and applicable.

The Bill recognises IFs, although they are described as International Sporting Federations.

A potential conflict arises under the definition of “national sporting organisation” in that it is possible for the IF and the ASC to recognise different NFs as being responsible for a particular sport in Australia. This is clearly undesirable and would have grave consequences.

Further, IFs have agreed to be bound by the World Anti-Doping Code. I appreciate the position of Australia as a State differs from a mere sports organisation and that Australia is a signatory to the two Conventions. However, the World Anti-Doping Code and the two Conventions may have different requirements – indeed the Code is expressly stated to not be part of the UNESCO Anti-Doping Convention.^{xxv}

Should there be any differences between the requirements of the Code and the Conventions, how is it proposed that ASADA ensure its NAD Scheme permits Australian NFs to observe their obligations to their IFs? In saying this, I note the assurances of Mr Andrews in the Second Reading Speech that the NAD Scheme “will

be consistent with the mandatory provisions of the World Anti-Doping Code" although he had earlier stated it will reflect the provisions of the two Conventions.

- (11) Much will depend on the provisions of the NAD Scheme. In the Second Reading Speech, Mr Andrews stated this "*will be a legislative instrument developed alongside the ASADA Bill, to be tabled in parliament.*" At this point in time, the NAD Scheme (should it exist) has not been released for comment.

Yours sincerely

JOHN D COATES

-
- i In this letter I will refer simply to "athletes", but ask that this be understood as including
ii "athlete support personnel" where appropriate.
iii i.e. the General Anti-Doping Convention and the UNESCO Anti-Doping Convention
iv For example refer to the matter of Martin Vinnicombe, the Australian Cycling Federation (as it
then was) and ASDA.
v The AOC understands from discussions with ASDA that ASDA will permit some a small
vi number of sports organisations, such as the professional football codes, to continue their
vii prosecutions of ADRVs within their respective sports subject to close ASADA oversight.
viii Schedule 1, Section 3(xa) the Act.
ix Eg **AOC v S Eadie** Court of Arbitration for Sport 21 July 2004, **USADA v Tim Montgomery**
CAS 2004/0/645
Section 25 Administrative Appeals Tribunal Act 1975
i.e. positive drug tests revealing the presence of a prohibited substance or method.
The ADRVs are:
 the presence of a prohibited substance or its metabolites or markers in an athlete's bodily
specimen;
 use or attempted use of a prohibited substance or a prohibited method;
 refusing, or failing without compelling justification, to submit to sample collection after
notification as authorized in applicable anti-doping rules or otherwise evading sample
collection;
 violation of applicable requirements regarding athlete availability for out-of-competition
testing, including failure to provide required whereabouts information and missed tests
which are declared based on reasonable rules;
 tampering, or attempting to tamper, with any part of doping control;
 possession of prohibited substances or methods;
 trafficking in any prohibited substance or prohibited method;
 administration or attempted administration of a prohibited substance or prohibited method
to any athlete, or assisting, encouraging, aiding, abetting, covering up or any other type of
complicity involving an anti-doping rule violation or any attempted violation.
x Section 14(3)
xi Per Lord Hewart CJ R v Sussex Justices; ex parte McCarthy [1924] 1 KB 256.
xii [2003] WASC 70
xiii *The Anti-Doping Organization shall have the burden of establishing that an anti-doping rule
violation has occurred. The standard of proof shall be whether the Anti-Doping Organization
has established an anti-doping rule violation to the comfortable satisfaction of the hearing body
bearing in mind the seriousness of the allegation which is made. This standard of proof in all*

cases is greater than a mere balance of probabilities but less than proof beyond a reasonable doubt. Where the Code places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be a preponderance of the evidence.

- xiv **Brigginshaw v Brigginshaw** (1938) 60 CLR 336.
- xv See Article 8 of the World Anti-Doping Code.
- xvi Now Nicholas J of the Supreme Court of NSW
- xvii **USADA v Tim Montgomery** CAS 2004/0/645 – paragraphs 5 and 6
- xviii See section 2A of the Australian Sports Drug Agency Act 1990
- xix See Section 11 of the Australian Sports Drug Agency Act 1990
- xx See Appendix 1 to the World Anti-Doping Code.
- xxi See Article 2 of the General Anti-Doping Convention.
- xxii See Article 2 of the UNESCO Anti-Doping Convention.
- xxiii In making this comment, I am aware of the use of the terms “sporting organisation” and “sporting events” in the Australian Sports Commission Act 1989 and the Australian Sports Drug Agency Act 1990.
- xxiv TAS 94/128 pronounced 5 January 1995
- xxv See Article 4.2 of the UNESCO Anti-Doping Convention.

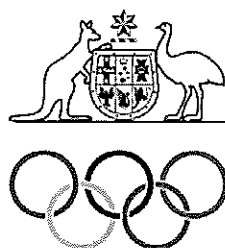
ATTACHMENT 9
AUSTRALIAN OLYMPIC COMMITTEE

INCORPORATED
A.B.N. 33 052 258 241

President:
John D Coates AC

Vice Presidents:
Peter G Montgomery AM
Ronald G Harvey CVO AM

Secretary General:
Craig Phillips



PO Box 312
ST LEONARDS NSW 1590

Level 3
1 Atchison Street
ST LEONARDS NSW 2065
AUSTRALIA

16 October 2012

Senator The Hon Kate Lundy
Minister for Sport
Suite MG60
Parliament House
CANBERRA ACT 2600

Dear Kate,

Australian Sports Anti-Doping Authority (ASADA)

I am not commenting on the report released last week by the United States Anti-Doping Agency (USADA) given my positions as President of the International Council of Arbitration for Sport and Court of Arbitration for Sport which hears all appeals under the World Anti-Doping Code.

However I was pleased to read your comment this morning that:

“The Australian Government, through ASADA, is committed to protecting the health of athletes and the integrity of Australian sport through the elimination of doping. ASADA is constantly improving their techniques and tools, including their investigations and intelligence capabilities, long term storage facilities and profiling approaches.”

In order to improve ASADA’s “investigations and intelligence capabilities” I suggest that the Government should again consider strengthening ASADA’s powers to investigate allegations of doping practices by including the power to “compel witnesses to attend and give evidence and to produce documents” relevant to such investigations.

This is not the first time I have made this suggestion on behalf of the AOC and in which regard I refer you to paragraph 8 of my attached letter to Dr Ian Holland, Secretary, Australian Senate Legislation Committee dated 12 January 2006 and the correspondence with then Minister for Sport, Senator Rod Kemp referred to therein.

As with my letter to Dr Holland, I will be posting this letter on the AOC website to encourage public discussion.

Yours sincerely,

JOHN COATES AC

INTERNATIONAL ASSOCIATIONS

• INTERNATIONAL OLYMPIC COMMITTEE (IOC), LAUSANNE • ASSOCIATION OF NATIONAL OLYMPIC COMMITTEES (ANOC), PARIS
• OCEANIA NATIONAL OLYMPIC COMMITTEES (ONOC), SUVA

ATTACHMENT 10

Media Release

16 October 2012

GIVE ASADA MORE POWERS TO INVESTIGATE ILLEGAL DOPING - COATES

The AOC President, John Coates, has again called for stronger investigative powers, including the authority to compel witnesses to give evidence, as part of the fight against illegal doping in sport.

In a letter to the Federal Minister for Sport, Senator Kate Lundy, Coates said “I suggest that the Government should again consider strengthening ASADA’s (Australian Sports Anti-Doping Authority) powers to investigate allegations of doping practices by including the power to compel witnesses to attend and give evidence and to produce documents relevant to such investigations”.

Coates was responding to comments by Senator Lundy where she vowed “the Australian Government, through ASADA, is committed to protecting the health of athletes and the integrity of Australian sport through the elimination of doping”.

Senator Lundy added “ASADA is constantly improving their techniques and tools, including their investigations and intelligence capabilities, long term storage facilities and profiling approaches”.

While very supportive, Coates, has long held the belief that more must be done to combat drugs in sport. He backed the creation of ASADA in June 2005 but in a submission to the Government argued they had failed to provide ASADA with the necessary and appropriate investigative powers.

Back in 2000 the AOC approached the Government of the day arguing for a “Sports Doping Ombudsman” with “the powers to investigate allegations of doping practices, including the power to compel witnesses to attend and give evidence and produce documents”.

Coates acknowledges that the creation of ASADA eliminated the need for an Ombudsman but he firmly believes in the needs for coercive investigative powers.

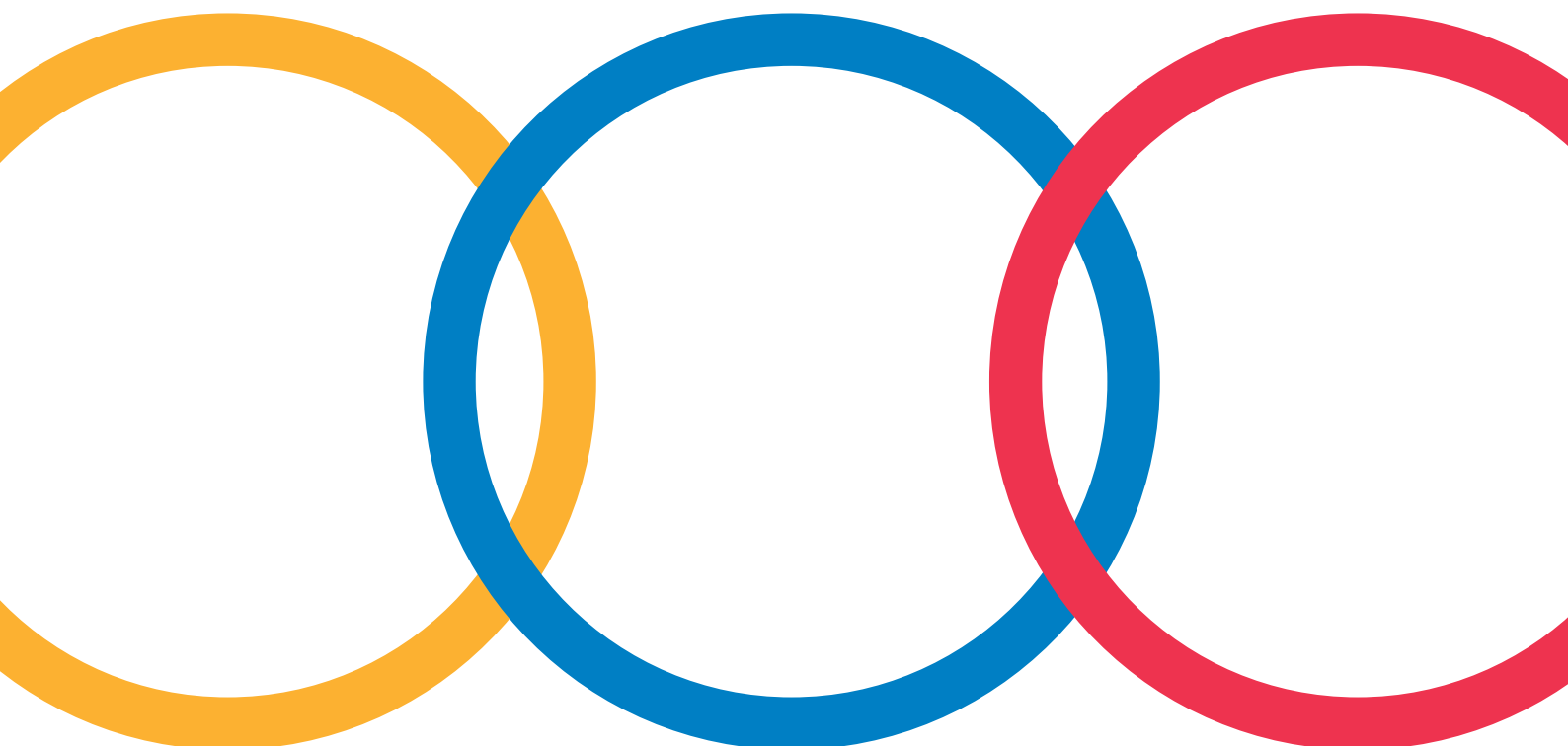
Today he repeated a clause contained in the 2006 submission.” The AOC is committed to opposing and, if possible, eliminating, the scourge of cheating in sport through the use of drugs and prohibited methods. AOC experience is that without the power to compel the giving of oral and documentary evidence, many allegations of ADRV’s (anti-doping rule violations) cannot be properly investigated and prosecuted”.



ASOIF

**ANALYSIS OF ANTI-DOPING ACTIVITIES
AND EXPENDITURE OF SUMMER OLYMPIC
INTERNATIONAL FEDERATIONS**

LAUSANNE, 2010





CONTENT

| | |
|---|-----------|
| EXECUTIVE SUMMARY | 4 |
| CHAPTER I – BACKGROUND AND OBJECTIVES | 5 |
| CHAPTER 2 – METHODOLOGY | 6 |
| CHAPTER 3 – RESULTS | 7 |
| 3.1 Financial Resources & Budget | 7 |
| 3.1.1 Total cost overview of anti-doping activities in 2009 | 7 |
| 3.1.2 Variation in expenditure between IFs | 8 |
| 3.1.3 Distribution of anti-doping costs | 10 |
| 3.1.4 Revenue from anti-doping activities | 12 |
| 3.2 Human Resources (HR) | 13 |
| 3.2.1 Total cost overview of HR in 2009 | 13 |
| 3.2.2 Distribution amongst the IFs | 13 |
| 3.2.3 Overview on time spent (by activity) | 15 |
| 3.3 Testing | 16 |
| 3.3.1 Total costs of testing in 2009 | 16 |
| 3.3.2 Testing efficiency | 16 |
| 3.3.3 Missed Test and Filing Failures | 16 |
| 3.3.4 Facts and Figures Testing & Laboratories | 18 |
| 3.4 Results Management | 19 |
| 3.4.1 Total costs of results management in 2009 | 19 |
| 3.4.2 Facts and Figures Results Management | 19 |
| 3.4.3 Therapeutic Use Exemptions | 19 |
| 3.4.4 Facts and Figures on TUEs | 19 |
| CHAPTER 4 – CONCLUSION | 20 |
| CHAPTER 5 – APPENDICES | 21 |
| Appendix I – Glossary of Terms/Definitions | 21 |
| Appendix II – Overview of Cost Categories | 22 |
| Appendix III – Detailed Breakdown of time spent on anti-doping activities .. | 24 |
| Appendix IV – Revenue Source for financing anti-doping programmes | 25 |
| Appendix V – Testing | 25 |
| Appendix VI – Detailed Distribution of Results Management | 31 |
| Appendix VII – RTP Size distribution | 33 |
| Appendix VIII – Distribution of TUEs amongst international federations | 33 |
| Appendix IX – Questionnaire | 34 |

EXECUTIVE SUMMARY

A revised version of the WADA Code was introduced in 2009. To establish the extent of expenditure by International Federations (IFs) in their efforts to implement code-compliant anti-doping programmes, ASOIF commissioned a survey of the Summer Olympic International Federations. The objectives of this study were to establish the total expenditure on anti-doping, determine the distribution of that expenditure across the various aspects of anti-doping programmes, and relate this expenditure to the outcome of those programmes.

A total of 28 IFs were surveyed using an on-line questionnaire, of which 27 responded in whole or in part (response rate = 96%).

The total expenditure on anti-doping by respondents in 2009 was \$21.4 million, which was split almost equally between internal and external costs. Of this, testing and results management accounted for approximately 86% of all expenditure (i.e. \$18.4 million). Only six IFs were able to offset expenditure through revenue generation, which totalled \$3.4 million (or 16% of total expenditure). However, 50% of this was 'uncontracted', in that it was not guaranteed through any contractual obligation so cannot be treated as a permanent offset against expenditure. No single IF generated more than 7% of total expenditure.

The total expenditure on human resources for the 27 respondents in 2009 was approximately \$2.1 million. Both paid and volunteer staff spent over half of their time dealing with testing and results management-related matters.

Of the 32,916 tests initiated by the IFs in 2009, 20,192 were financed by them, at a total cost of \$16.6 million, making an average cost per test of \$825. The 'cost' of an Anti-Doping Rule Violation (ADRV), of which there were 159, arising from an IF-financed test was calculated to be \$104,781.

Results Management costs totalled approximately \$1.8 million, of which 87% was spent on non-routine matters (i.e. Adverse Analytical Findings, Atypical Findings and ADRVs). The total cost of the 2,386 TUEs processed by IFs in 2009 accounted for only 0.8% of the total cost of anti-doping.

On the basis of these findings, it is recommended that the following should be established and promoted to enhance the efficiency and effectiveness of anti-doping programmes: methods of intelligent testing; centralised sample collection, analysis and centralised TUE processing services; further common education programmes.

BACKGROUND AND OBJECTIVES

The World Anti-Doping Code (“the Code”) was first adopted in 2003 and became effective in 2004. Further revisions to the Code were made in 2007, and the updated Code came into effect on January 1, 2009. To establish the full extent of expenditure by International Federations (IFs) in their efforts to implement code-compliant anti-doping programmes, ASOIF commissioned a survey of the Summer Olympic International Federations (ASOIF Council decision of 17 November 2008, confirmed at the General Assembly 24 March 2009).

THE OBJECTIVES OF THIS STUDY WERE TO:

- Establish the total expenditure on anti-doping by the Summer Olympic International Federations.
- Determine the distribution of the total expenditure across the various aspects of those Federations’ anti-doping programmes.
- Relate this expenditure to the outcome of those programmes in terms of Adverse Analytical Findings (AAFs), Atypical Findings (ATFs), and Anti-Doping Rule Violations (ADRVs).

This report is the result of a retrospective survey which was conducted from January 2010 to March 2010 based on an online questionnaire addressed to the 28 Summer Olympic International Federations (IFs).

METHODOLOGY

QUESTIONNAIRE

To meet the objectives highlighted in chapter one, a questionnaire was developed by ASOIF in consultation with its Medical Consultative Group. A key consideration when developing this questionnaire was to strike a balance between capturing sufficiently detailed data while keeping the questionnaire concise and manageable.

The questionnaire consisted of a mix of 35 open and closed questions divided across 6 sections: resources and budget; human resources; testing; laboratories; results management, and; TUEs. The questionnaire can be found in [Appendix IX \(page 34\)](#) at the end of this document.

TARGETED SURVEY RESPONDENTS

This survey targeted the following 28 IFs:

- 26 Summer Olympic IFs that are current members of ASOIF
- 2 IFs (Golf and Rugby) that are members of ASOIF by virtue of their inclusion in the Summer Olympic Programme from 2016

SURVEY MODE

The data collection method for this questionnaire was an online survey. This has the following advantages:

- A user-friendly interface that ensures consistent responses.
- Respondents can complete the questionnaire at their convenience within the survey period and at their own pace.

- Multiple users within an IF can easily access the same questionnaire (e.g. to complete different sections as necessary).
- More efficient management of the survey process.

Technical implementation of the online survey was outsourced to TSE Consulting.

SURVEY TIMELINE

The survey was conducted over the period from January to March 2010.

SURVEY RESPONSE

Twenty-seven of the 28 IFs participated in the survey (response rate 96%). As such, the results obtained from this survey can therefore be considered to be a valid representation of the current state of anti-doping investments by International Summer Olympic Federations.

PRESENTATION OF RESULTS

All costs are presented in U.S. Dollars, which was the currency of choice for the majority of respondents. Responses in other currencies have been converted to dollars based on the 2009 'Annual Average U.S. Dollar Exchange Rates' from the Federal Reserve Bank of New York.

Analysis is limited to descriptive statistics, as inferential statistics provide no further insight into the meaning of the results in the context of the report's objectives.

Data collected for this survey will remain confidential and will only be used for the purpose of this report.

RESULTS

3.1 FINANCIAL RESOURCES & BUDGET

3.1.1 TOTAL COST OVERVIEW OF ANTI-DOPING ACTIVITIES IN 2009

Table 1 shows that the total reported expenditure¹ on anti-doping was \$21.4 million (27 responses). There was an almost equal split between ‘internal’ (i.e. costs paid to people employed by the IFs) and ‘external’ (i.e. costs paid to external people and/or organisations) expenditure (50.2% and 49.8% respectively).

Testing accounts for the single greatest proportion of expenditure (75% and 81% of the total internal and external expenditure respectively). Results management accounts for a further 7% and 10% respectively.

Thus, these two items accounted for approximately 86% of all expenditure, which corresponds to a total of \$18.4 million, in 2009. By contrast, education comprised only about 4% of expenditure.

A more detailed breakdown of the cost categories can be found in [Appendix II \(page 22\)](#), including a detailed split for “in-competition” and “out-of-competition” costs.

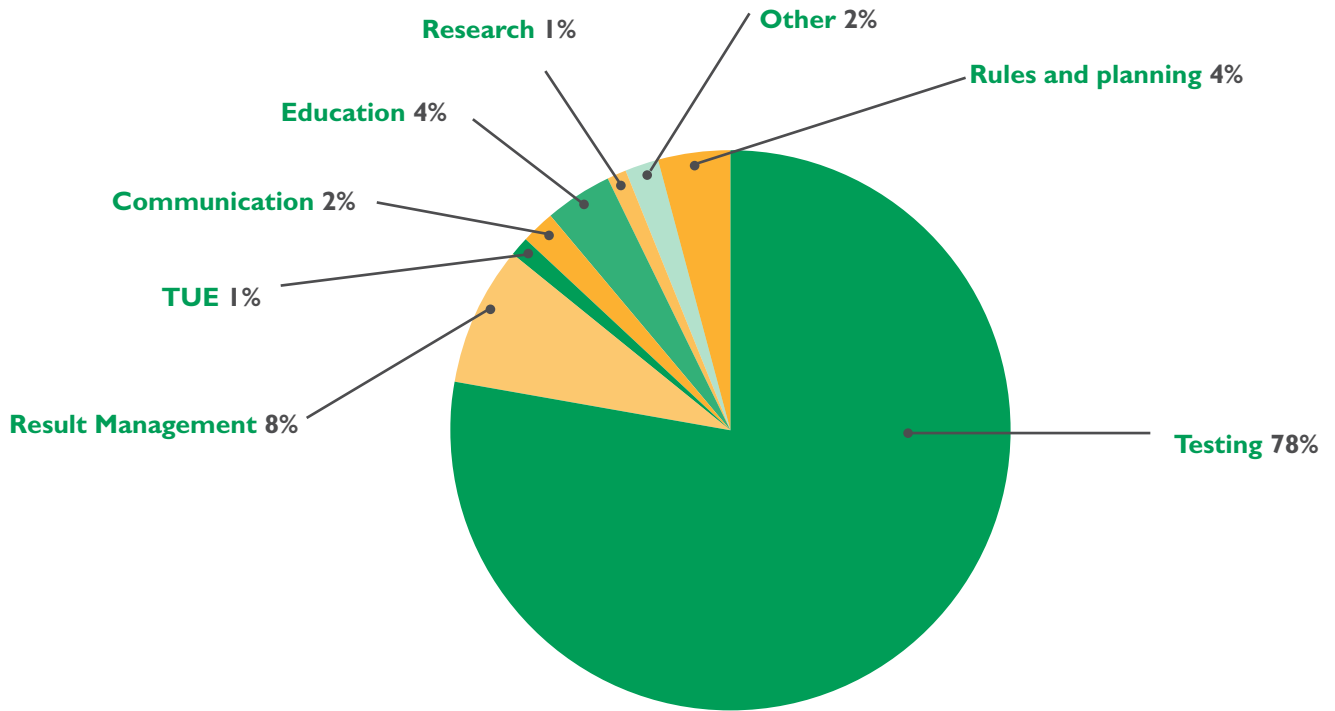
The expenditure on each aspect of anti-doping as a proportion of total (i.e. in- and out-of-competition combined) is shown graphically in figure 1.

Table 1. Total cost breakdown.

| | In-house expenditure | | External expenditure | | Total expenditure | |
|-----------------------------|----------------------|-------------|----------------------|-------------|-------------------|------------|
| | (\$) | (%) | (\$) | (%) | (\$) | (%) |
| Rules & planning | 482,417 | 4.5 | 300,362 | 2.8 | 782,779 | 3.7 |
| Testing | 8,046,423 | 74.9 | 8,613,755 | 80.7 | 16,660,178 | 77.8 |
| In Competition | 3,006,609 | 28.0 | 3,726,096 | 34.9 | 6,732,705 | 31.5 |
| Out-of-Competition | 5,039,813 | 46.9 | 4,887,659 | 45.8 | 9,927,472 | 46.4 |
| Results Management | 780,991 | 7.3 | 1,026,100 | 9.6 | 1,807,091 | 8.4 |
| Routine | 191,405 | 1.8 | 41,600 | 0.4 | 233,005 | 1.1 |
| Non-routine | 589,586 | 5.5 | 984,500 | 9.2 | 1,574,086 | 7.4 |
| TUE | 135,811 | 1.3 | 40,031 | 0.4 | 407,632 | 0.8 |
| Communication | 401,065 | 3.7 | 6,568 | 0.1 | 882,546 | 1.9 |
| Education | 550,928 | 5.1 | 331,618 | 3.1 | 272,410 | 4.1 |
| Research | 111,450 | 1.3 | 160,960 | 1.5 | 413,094 | 1.3 |
| Other | 229,352 | 1.9 | 183,741 | 1.7 | 21,402,090 | 1.9 |
| GRAND TOTAL | 10,738,435 | 50.2 | 10,663,655 | 49.8 | 21,402,090 | 100 |

¹ This total does not take into account the cost of human resources (staff salaries & social charges) – those are reviewed under section 3.2. This figure does include the FEI’s cost of anti-doping related to horses.

Figure 1. Anti-Doping expenditure as a proportion of total budget.



3.1.2 VARIATION IN EXPENDITURE BETWEEN IFs

The spending on anti-doping differs considerably between the different IFs as evident from tables 2 and 3. Clearly, the absolute amount spent on each aspect of anti-doping – and particularly important aspects such as education – will tend to be smaller for those IFs with smaller budgets.

Table 2. Average internal and external costs.

| | Mean (\$) | S.D. |
|--------------|----------------|------------------|
| Internal | 429,537 | 850,558 |
| External | 444,319 | 925,172 |
| Total | 792,670 | 1,539,481 |

Notes: S.D. = standard deviation; 27 federations provided valid information; sum of internal and external costs does not match total as not all IFs provided all information.

The global spread across all cost categories is as shown in table 3. The relatively large standard deviations are due to a small number of IFs whose annual budgets are disproportionately large compared to the majority of respondents.

Table 3. Mean cost distribution¹.

| Activity | Mean | S.D |
|---|---------|---------|
| Rules, Policy & Strategic Plan | 68,702 | 101,825 |
| Testing (In-Competition) | | |
| Collection | 200,456 | 232,945 |
| Laboratories | 239,679 | 244,414 |
| Transport | 95,581 | 157,754 |
| Other | 67,468 | 86,204 |
| Testing (Out-of-Competition) | | |
| Whereabouts | 26,730 | 32,923 |
| Collection | 290,176 | 740,577 |
| Laboratories | 105,401 | 289,428 |
| Transport | 137,879 | 420,199 |
| Other | 72,151 | 122,455 |
| Results Management | | |
| Routine ² | 20,756 | 21,743 |
| Non-routine ³ | 106,279 | 171,719 |
| TUE | 13,177 | 13,398 |
| Information/communication | 25,374 | 55,333 |
| Education | 38,763 | 69,127 |
| Research | 42,901 | 60,250 |
| Other | 66,020 | 62,845 |

Notes:

¹ 27 federations provided valid information.

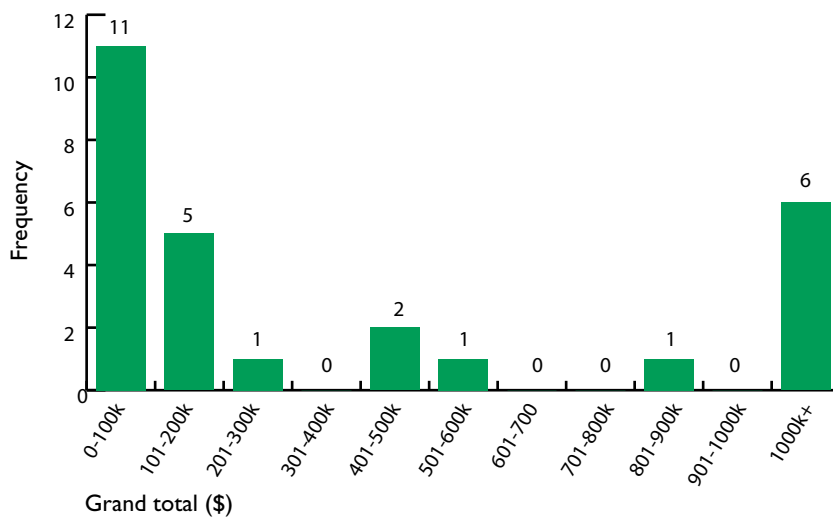
² Includes all processing of materials not related to an AAF, ATF or other apparent ADRV.

³ Includes processing of all materials related to an Adverse Analytical Finding, Atypical Finding, Filing Failure or Missed Test, and hearings.

3.1.3 DISTRIBUTION OF ANTI-DOPING COSTS

Figure 2 shows the distribution of total expenditure across IFs. It can be seen that the majority of IFs (17 out of 27) spent \$300,000 or less in 2009, whereas only 6 IFs spent more than \$1 million.

Figure 2. Distribution of total anti-doping costs.



Note: 27 federations provided valid information.

Dividing the IFs into three equally-sized groups of 9 IFs with regard to total expenditure results in the thresholds and relative contribution to the total anti-doping expenditure shown in table 4:

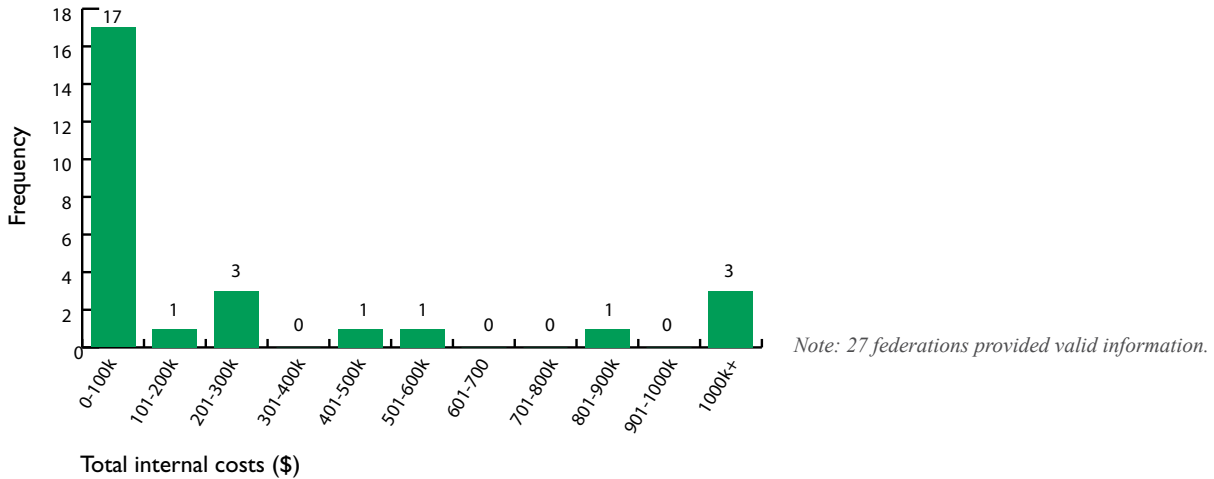
Table 4. Distribution of total expenditure.

| Group | Total costs (\$) | % of grand total | Average expenditure per group member (\$) |
|-------|------------------|------------------|---|
| 1 | 390,546 | 2 | 43,394 |
| 2 | 1,434,735 | 7 | 159,415 |
| 3 | 19,576,808 | 91 | 2,175,201 |

Note: 27 federations provided valid information.

Table 4 emphasises the disparity suggested in figure 2. That is, the third of IFs with the largest budgets contribute over 90% of the total anti-doping expenditure, while those third of IFs with the smallest budgets contribute only 2% of total expenditure.

Figure 3 shows the distribution of total ‘internal’ (i.e. costs paid for activities operated by IF staff members – commonly known as ‘in-house’). It can be seen that the majority of IFs (17 out of 27) spent \$100,000 or less in 2009, whereas only 3 IFs spent more than \$1 million.

Figure 3. Distribution of total internal cost

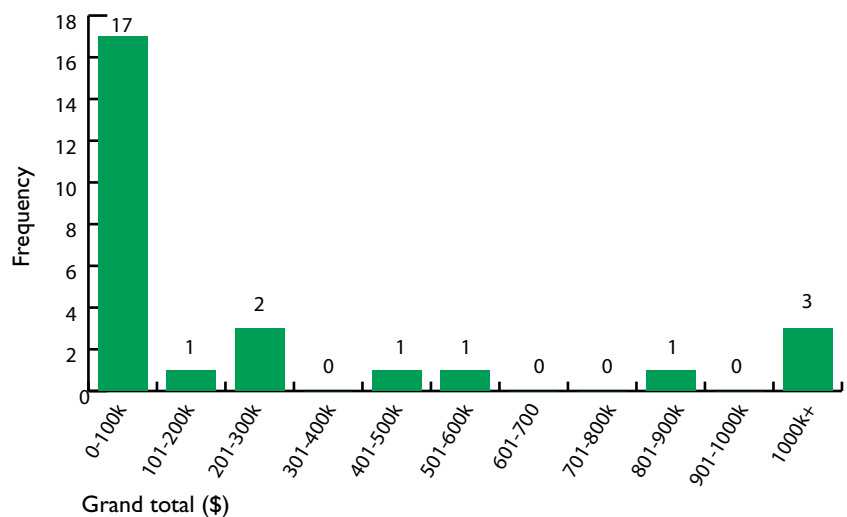
Dividing the IFs into the same 3 groups as for table 4 based on internal expenditure results in the thresholds and relative contribution to the total anti-doping expenditure shown in table 5:

Table 5. Distribution of internal expenditure.

| Group | Total internal costs (\$) | % of grand total | Average expenditure per group member (\$) |
|-------|---------------------------|------------------|---|
| 1 | 131,399 | 1 | 14,600 |
| 2 | 738,835 | 7 | 82,093 |
| 3 | 9,868,201 | 92 | 1,096,467 |

Table 5 shows the same trend for internal expenditure as for total expenditure, in that it appears that the same IFs with the highest and lowest total expenditures contribute the same proportions to total internal expenditure.

Figure 4 shows the distribution of total 'external' (i.e. costs paid for activities operated by non-IF staff members). It can be seen that the majority of IFs (17 out of 27) spent \$100,000 or less in 2009, whereas only 3 IFs spent more than \$1 million.

Figure 4. Distribution of external anti-doping costs.

Dividing the IFs into the same 3 groups as in table 4 based on external expenditure results in the thresholds and relative contribution to the total anti-doping expenditure shown in table 6:

Table 6. Distribution of external expenditure.

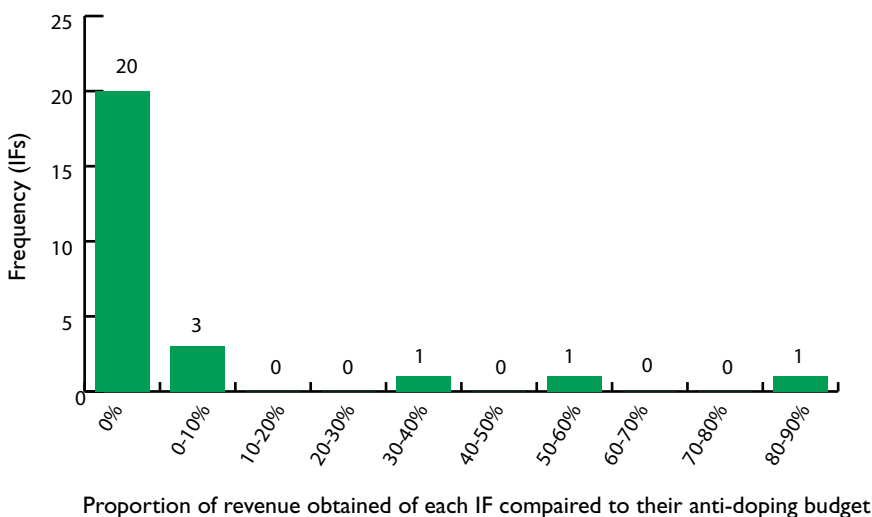
| Group | Total external costs (\$) | % of grand total | Average expenditure per group member (\$) |
|-------|---------------------------|------------------|---|
| 1 | 259,147 | 2 | 28,794 |
| 2 | 695,900 | 7 | 77,322 |
| 3 | 9,708,607 | 91 | 1,078,734 |

Table 6 shows the same trend for external expenditure as for total expenditure, in that it appears that the same IFs with the highest and lowest total expenditures contribute the same proportions to total external expenditure.

3.1.4 REVENUE FROM ANTI-DOPING ACTIVITIES

Six IFs had revenue streams from anti-doping activities that offset expenditure. The total revenue received by IFs in 2009 was \$3.4 million, which represents 16% of total expenditure. Of this total of \$3.4 million, 94% – or \$3.2 million – was received by 2 IFs (the 2 IFs that had 2nd and the 5th largest budgets), which means that the remaining 22 IFs that responded to this question were able to offset only 1% – or \$227,000 – of their costs (figure 5). The maximum single offset (as a proportion of total budget) by any one IF was 7%.

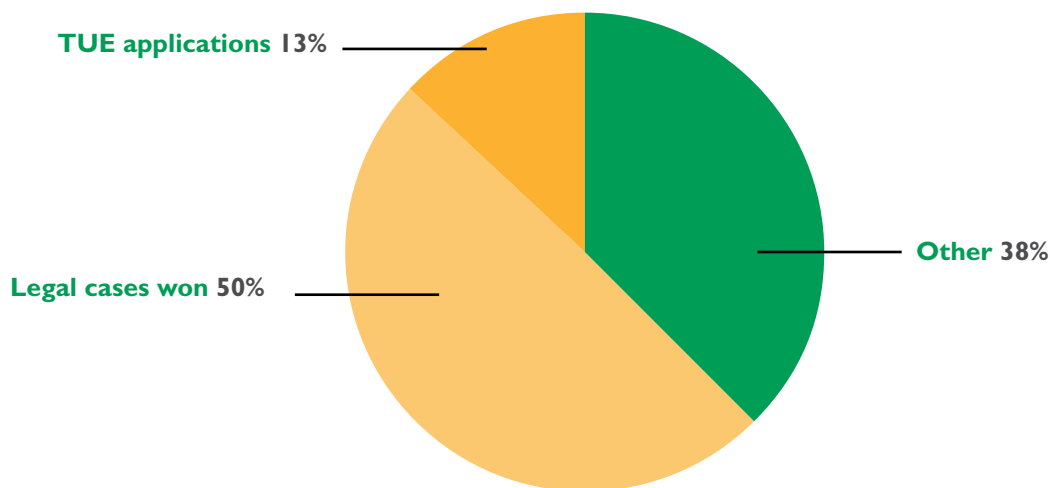
Figure 5. Distribution of proportion of revenue obtained from anti-doping activities.



Note: 26 federations provided valid information.

These revenues are derived from the sources shown in figure 6. It is clear that a substantial proportion of revenue (50%) was ‘uncontracted’, in that it is not guaranteed through any contractual obligation. As such, this cannot be regarded as a representative value of such income over the long term.

Figure 6. Anti-doping revenue streams.



Notes: 6 federations provided valid information. Responses covered under “other” include; provision of testing services, sanctions against National Federations arising from ADRVs, medical control program.

3.2 HUMAN RESOURCES (HR)

3.2.1 TOTAL COST OVERVIEW OF HR IN 2009

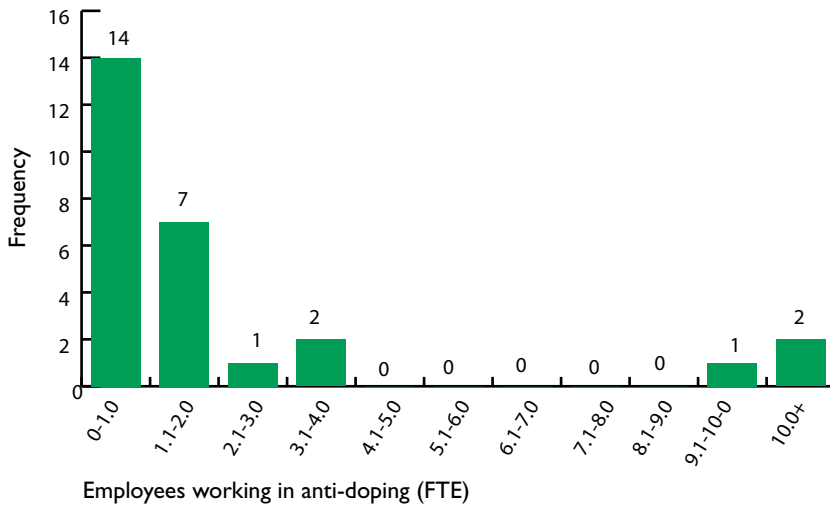
In total, the equivalent of approximately 67 ‘full-time equivalent’ (FTE) staff are employed by IFs, the total cost of which is approximately \$1.6 million. In addition, the expenses for unpaid volunteers total approximately \$0.5 million. Thus, the total expenditure on human resources for the 27 respondents in 2009 was approximately \$2.1 million.

3.2.2 DISTRIBUTION AMONGST THE IFs

Three IFs employ 51% of the total paid staff working in anti-doping (figure 7). These same three IFs have a total budget that accounts for 48% of the total anti-doping expenditure, which suggests that, in general, the number of paid employees tends to broadly reflect the size (at least in monetary terms) of the respective anti-doping programme. Individual salaries for staff working in anti-doping across all IFs averaged \$75,000, with a range from \$30,000-120,000² (figure 8).

² Across 22 IFs

Figure 7. Distribution of number of paid employees working on anti-doping in FTEs.



Note: 27 federations provided valid information.

Figure 8. Distribution of average annual salaries of paid employees working in anti-doping.



Note: 22 federations provided valid information.

3.2.3 OVERVIEW ON TIME SPENT (BY ACTIVITY)

Table 7 describes the proportion of time spent by paid and volunteer staff on each of the aspects of anti-doping.

While the order of the various aspects was the same for both paid and volunteer staff, the former spent slightly more time dealing with testing and results management, volunteers tended to spend noticeably more time dealing with TUEs.

The detailed breakdown is as follows:

Table 7. Time spent on anti-doping activities.

| Activity | Paid staff ¹ | Volunteers ² |
|--------------------------------|-------------------------|-------------------------|
| Rules, Policy & Strategic Plan | 8.5 % | 10.3 % |
| Testing | 31.2 % | 26.4 % |
| Results Management | 27.0 % | 24.4 % |
| TUE | 9.2 % | 21.7 % |
| Information/communication | 8.1 % | 4.6 % |
| Education | 9.0 % | 4.5 % |
| Research | 2.1 % | 6.5 % |
| Other (mainly whereabouts) | 5.0 % | 1.6 % |

Notes: ¹24 federations provided valid information; ²19 federations provided valid information.

Translation of the information in table 7 for paid staff into cost terms (using an average of \$24,544 per FTE)³ results in the expenditure on each aspect of the anti-doping process shown in table 8:

Table 8. Actual expenditure on human resources.

| Activity | FTEs | Cost (\$) |
|--------------------------------|------|-----------|
| Rules, Policy & Strategic Plan | 5.7 | 139,249 |
| Testing | 20.9 | 513,439 |
| Results Management | 18.1 | 444,157 |
| TUE | 6.2 | 150,911 |
| Information/communication | 5.5 | 133,762 |
| Education | 6.0 | 147,481 |
| Research | 1.4 | 34,984 |
| Other (mainly whereabouts) | 3.4 | 82,315 |

A more detailed distribution on the proportion of time spent on anti-doping activities for paid and non-paid staff is shown in [Appendix III \(page 24\)](#).

³ This was calculated by dividing the total salary cost (\$1.6 million) by the number of FTEs (67)

3.3 TESTING

3.3.1 TOTAL COSTS OF TESTING IN 2009

3.3.1.1 TOTAL NUMBER OF TESTS

A total of 32,916 tests were initiated (i.e. tests that are requested or instructed by an IF) by the IFs (of whom 25 responded to this question) in 2009, of which 18,653 (56%) were In-Competition, and 14,263 (44%) Out-of-Competition. According to WADA statistics⁴, this accounts for about 19% of the total number of tests carried out in 2009 across all sports.

3.3.1.2 COST PER TEST

Out of these 32,916 tests, 61.3% were financed by the IFs concerned (20,192 tests, of which 6,755 were In-Competition and 13,437 were Out-of-Competition). The remaining 38.7% of tests were financed by local competition organisers. Based on a total cost for testing of \$16.6 million (see table 1), the average cost per test is therefore calculated as \$825.

3.3.2 TESTING EFFICIENCY

Out of the total number of tests carried out by, or on behalf of, IFs (173,361)⁵ 1,605 resulted in Adverse Analytical Findings (AAFs; 0.93%) and 1,887 resulted in Atypical Findings (ATFs; 1.09%). The tests financed by IFs resulted in similar ratios of AAFs and ATFs (AAFs = 0.95%; ATFs = 1.12%).

We can therefore calculate the average financial investment (across IF-financed tests) for each recorded AAF as \$86,501, an ATF as \$73,574, and an ADRV as \$104,781. It is not known whether these 'costs' are generally representative of those for testing not included in this survey.

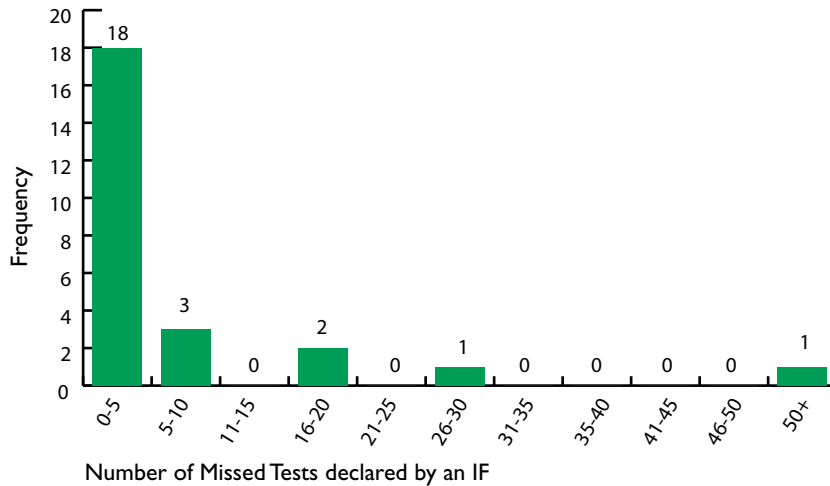
3.3.3 MISSED TEST AND FILING FAILURES

A total of 241 Filing Failures (FFs) and 210 Missed Tests (MTs) were registered amongst the responding IFs⁶ in 2009. The distribution of these across IFs is shown in figures 9 and 10.

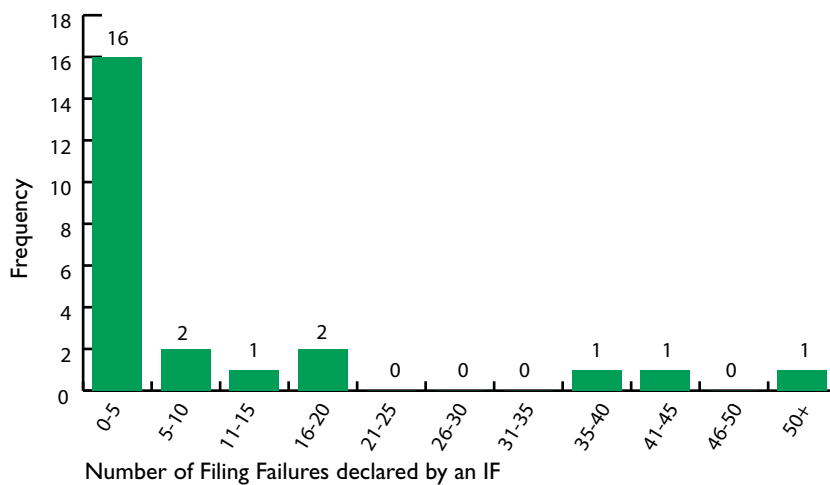
⁴ WADA Statistics on Laboratories – August 2010. A total of 173'361 tests were carried out across 28 Summer Olympics IFs. These are detailed in Appendix V.

⁵ Carried out and identified by WADA laboratories as being linked to a specific sport. This is different from what is financed by the corresponding international federations (source: WADA Accredited Laboratories Statistics 2009, published in August 2010)

⁶ 24 IFs responded for FF, 25 IFs for MT

Figure 9. Distribution of Missed Tests declared in 2009.

Note: 25 federations provided valid information.

Figure 10. Distribution of Filing Failures declared in 2009.

Note: 24 federations provided valid information.

The average annual proportion of FFs in 2009 was 2.6%.

3.3.4 FACTS AND FIGURES TESTING & LABORATORIES

- 92% of samples initiated by IFs were for urine and 8% were for blood.

Note: 27 federations provided valid information

- 85% of IFs (i.e. a total of 23 IFs) carried out target testing, which constituted 22% of all testing.

Note: 27 federations provided valid information

- 52% of IFs (14) carried out non-analytical investigations in 2009.

Note: 27 federations provided valid information

- 11% of IFs (3) had a biological passport programme in place.

Note: 27 federations provided valid information

- 81% of the IFs (22) used an external sample collection agency.

Note: 27 federations provided valid information

- 45% of IFs (12) used only WADA-accredited laboratories for the analysis of non-urine samples.

Note: 27 federations provided valid information

- 38% of IFs (10) carried out EPO analysis; 88% (23) carried out IRMS analysis and 27% (7) carried out other types of analysis (such as T/E longitudinal studies, Beta blockers, CERA, hGh, etc).

Note: 26 federations provided valid information

3.4 RESULTS MANAGEMENT

3.4.1 TOTAL COSTS OF RESULTS MANAGEMENT IN 2009

The total cost of Results Management was approximately \$1.8 million, of which 87% was spent on non-routine matters (i.e. AAFs, ATFs, ADRVs) and 13% was spent on routine operations. Of the total, 56% (i.e. about \$1 million) was spent externally with the remaining \$0.8 million spent internally (see Appendix II for details).

3.4.2 FACTS AND FIGURES RESULTS MANAGEMENT

- A total of 41% (11 IFs) of the respondents have financed results management for tests that were not initiated by the federation.

Note: 27 federations provided valid information

- The 159 ADRVs arising from IF-financed tests in 2009 represented 44% of the total ADRVs in 2009, despite representing only 12% of all samples collected as recorded by WADA (173,361). This suggests that IF-financed tests were more effective (and, if costs for non IF-financed tests were consistent with those financed by IFs, more efficient) at detecting ADRVs. See [Appendix VI \(page 31\)](#) for details.

3.4.3 THERAPEUTIC USE EXEMPTIONS

In total, 2,386 TUEs were processed by IFs⁷ in 2009 (see [Appendix VIII \(page 33\)](#) for details) at a total cost of \$175,842. This represents 0.8% of the total cost of anti-doping, which is probably due to the contribution to TUE process by volunteers (see table 6). Thus, the average physical cost (i.e. not including the ‘virtual’ cost of volunteer time) of a TUE is \$74⁸ per TUE.

3.4.4 FACTS AND FIGURES ON TUEs

- 23% of IFs (i.e. 6 IFs) outsource their administration for TUE applications.

Note: 26 federations provided valid information

- Only 4% of IFs (1) always charge an application fee for TUEs, while 12% (3) charge a fee in certain circumstances (e.g. depending on expertise required, level of athlete, or type of TUE). 19% of IFs (5) mutually recognise TUEs issued by NADOs, whereas 27% (7) never mutually recognise. The remaining 54% (13) mutually recognise under certain circumstances.
- On average, a TUE application takes 2.2 weeks to process (this includes the time from the receipt of an application to the date of notification to the athlete).

Note: 25 federations provided valid information

⁷ 25 federations provided valid information

⁸ In keeping with other parts of this survey, this figure does not include salary costs. Inclusion of such costs would raise the cost per TUE to \$137.

CONCLUSIONS AND RECOMMENDATIONS

The aim of this survey was to establish the expenditure of ASOIF member federations on anti-doping, and the distribution of expenditure and time across the range of anti-doping-related activities in the context of the outcome of the samples collected.

The total expenditure on anti-doping activities by IFs in 2009 was \$21.4 million, which was split almost equally between ‘internal’ and ‘external’ costs. A substantial majority of this total (78%) was spent on testing, far more than the next greatest item (results management – 8%). In total, 16% of expenditure was offset by anti-doping revenue, although 50% of this was non-contracted (i.e. forfeited prize money). Two IFs accounted for 94% of this total revenue, and the maximum proportion of total expenditure received by any IF was 7%.

IFs employ a total of 67 FTE staff (an average of 2.5 per IF), at a total cost of \$1.6 million per annum. Volunteer expenses account for a further \$0.5 million. The majority of time is spent on matters related to testing and results management, and (particularly for volunteers) TUE processing.

A total of 32,916 tests were initiated by IFs in 2009 at a total cost of \$16.6 million, and accounting for 19% of all tests conducted. Of these, 56% were In-Competition tests, and the remaining 44% Out-of-Competition. This represents an average cost per test of \$825. Further analysis of these data shows that the ‘cost’ of each AAF recorded by the IFs who responded to this survey was \$86,501. Tests financed by IFs were more effective at detecting Anti-Doping Rule Violations than non IF-financed tests.

THE FOLLOWING RECOMMENDATIONS ARE MADE:

1. Establish and promote methods of increasing detection of doping through intelligent testing in order to reduce the unit cost of ADRVs:
 - a. Require and disseminate sufficiently detailed anti-doping statistics from Anti-Doping Organisations to allow a more thorough understanding of each sport (such as provided in this report).
 - b. Establish and promote ‘intelligent’ testing techniques to facilitate a reduction of the overall number of tests.
 - c. Establish methods to enhance the implementation of the blood passport project to allow IFs to improve the sophistication and efficacy of testing.
2. Consider establishing and promoting methods of increasing cost efficiency through the use of (e.g.) centralised sample collection and analysis services, and partial analysis menus.
3. Establish and promote other methods of improving anti-doping administrative and testing efficiency, such as through the development of a centralised TUE processing service, and the adoption of Athlete Biological Passport programmes.
4. Continue to develop common anti-doping education programmes that target appropriate groups of athletes.

APPENDICES

APPENDIX I – GLOSSARY OF TERMS/DEFINITIONS

| | |
|------------------------------------|--|
| AAF | Adverse Analytical Finding – a report from a laboratory or other WADA - approved entity that, consistent with the International Standard for Laboratories and related Technical Documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method |
| ADRV | Anti-Doping Rule Violation. |
| ATF | Atypical Finding – a report from a laboratory or other WADA-approved entity which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an Adverse Analytical Finding |
| FTE | Full Time Equivalent – a person working 100% e.g. full time person (100%) = 1 half time person (50%) = 0.5 |
| FF | Filing Failure |
| MT | Missed Test. |
| NADO | National Anti-Doping Organization. |
| Non-routine | Includes processing of all materials related to an AAF,ATF, FF, MT, hearings and special cases |
| Routine | Includes all processing of materials not related to an AAF,ATF, or other apparent ADRV |
| RM | Results Management. |
| RTP | Registered Testing Pool – the pool of top level athletes established separately by each IF and NADO, the member of which must provide their custodian ADO with whereabouts. |
| In-competition testing | Any Doping Control that occurs during 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. |
| Out-of –Competition testing | Any Doping Control which is not conducted during an In-Competition period. |
| TUE | Therapeutic Use Exemption. A TUE is an authorization to use Prohibited Substance for valid therapeutic reasons. An application for a TUE shall be made in accordance with the International Standard for TUE. |
| LOC | Local Organizing Committee. |
| NOC | National Organizing Committee. |

APPENDIX II – OVERVIEW OF COST CATEGORIES

TOTAL COST OF ANTIDOPING - INTERNATIONAL SUMMER FEDERATIONS

| | INTERNAL / In-House Costs | | EXTERNAL / Outsourced Costs | | TOTAL COST | |
|---|------------------------------|--------------|--------------------------------|--------------|---------------------|--------------|
| | \$10,738,435 | 50,2% | \$10,663,655 | 49,8% | \$21,402,090 | 100% |
| Rules, Policy & Strategic plan | \$482,417 | 4.5% | \$300,362 | 2.8% | \$782,779 | 3.7% |
| Testing | \$8,046,423 | 74.9% | \$8,613,755 | 80.7% | \$16,660,178 | 77.8% |
| In Competition | \$3,006,609 | 28.0% | \$3,726,096 | 34.9% | \$6,732,705 | 31.5% |
| Collection | \$1,135,347 | 10.6% | \$1,171,665 | 11.0% | \$2,307,012 | 10.8% |
| Laboratories | \$612,940 | 5.7% | \$1,953,877 | 18.3% | \$2,566,816 | 12.0% |
| Transport | \$528,866 | 4.9% | \$363,910 | 3.4% | \$892,776 | 4.2% |
| Other | \$729,457 | 6.8% | \$236,644 | 2.2% | \$966,102 | 4.5% |
| Out competition | \$5,039,813 | 46.9% | \$4,887,659 | 45.8% | \$9,927,472 | 46.4% |
| Whereabouts | \$296,635 | 2.8% | \$27,594 | 0.3% | \$324,229 | 1.5% |
| Collection | \$2,348,931 | 21.9% | \$2,829,838 | 26.5% | \$5,178,769 | 24.2% |
| Laboratories | \$381,607 | 3.6% | \$1,314,124 | 12.3% | \$1,695,731 | 7.9% |
| Transport | \$1,628,341 | 15.2% | \$29,868 | 0.3% | \$1,658,209 | 7.7% |
| Other | \$384,299 | 3.6% | \$686,235 | 6.4% | \$1,070,534 | 5.0% |
| Result Management | \$780,991 | 7.3% | \$1,026,100 | 9.6% | \$1,807,091 | 8.4% |
| RM Routine | \$191,405 | 1.8% | \$41,600 | 0.4% | \$233,005 | 1.1% |
| RM non-routine | \$589,586 | 5.5% | \$984,500 | 9.2% | \$1,574,086 | 7.4% |
| TUE | \$135,811 | 1.3% | \$40,031 | 0.4% | \$175,842 | 0.8% |
| Information/Communication | \$401,065 | 3.7% | \$6,568 | 0.1% | \$407,632 | 1.9% |
| Educaion | \$550,928 | 5.1% | \$331,618 | 3.1% | \$882,546 | 4.1% |
| Research | \$111,450 | 1.3% | \$160,960 | 1.5% | \$272,410 | 1.3% |
| Other | \$229,352 | 1.9% | \$183,741 | 1.7% | \$413,094 | 1.9% |

Cost Split for In-Competition Testing Costs (\$):

| | Internal /In-house | | External/Outsourced | | TOTAL | |
|------------------------|--------------------|-------|---------------------|-------|-----------|-------|
| | 3,006,609 | | 3,726,096 | | 6,732,705 | |
| IC Collection | 1,135,347 | 37.8% | 1,171,665 | 31.4% | 2,307,012 | 34.3% |
| IC Laboratories | 612,940 | 20.4% | 1,953,877 | 52.4% | 2,566,816 | 38.1% |
| IC Transport | 528,866 | 17.6% | 363,910 | 9.8% | 892,776 | 13.3% |
| IC Other | 729,457 | 24.3% | 236,644 | 6.4% | 966,102 | 14.3% |

Cost Split for Out of Competition Testing Costs (\$):

| | Internal /In-house | | External/Outsourced | | TOTAL | |
|------------------------|--------------------|-------|---------------------|-------|-----------|-------|
| | 5,039,813 | | 4,887,659 | | 9,927,472 | |
| OC Whereabouts | 296,635 | 5.9% | 27,594 | 0.6% | 324,229 | 3.3% |
| OC Collection | 2,348,931 | 46.6% | 2,829,838 | 57.9% | 5,178,769 | 52.2% |
| OC Laboratories | 381,607 | 7.6% | 1,314,124 | 26.9% | 1,695,731 | 17.1% |
| OC Transport | 1,628,341 | 32.3% | 29,868 | 0.6% | 1,658,209 | 16.7% |
| OC Other | 384,299 | 7.6% | 686,235 | 14.0% | 1,070,534 | 10.8% |

APPENDIX III – DETAILED BREAKDOWN OF TIME SPENT ON ANTI-DOPING ACTIVITIES

Paid Staff

| Anti-doping activities | Mean (%) | Lowest (%) | Highest (%) |
|--------------------------------|----------|------------|-------------|
| Rules, Policy & Strategic Plan | 8.5 | 4.0 | 25.0 |
| In-competition testing | 10.7 | 5.0 | 22.5 |
| Out of competition testing | 20.5 | 1.0 | 70.0 |
| Routine results management | 11.7 | 5.0 | 25.0 |
| Non-routine results management | 15.3 | 1.0 | 40.0 |
| TUE | 9.2 | 1.0 | 25.0 |
| Information/communication | 8.1 | 2.0 | 28.0 |
| Education | 9.0 | 2.0 | 20.0 |
| Research | 2.1 | 3.0 | 10.0 |
| Other (mainly whereabouts) | 5.0 | 5.0 | 40.0 |

Note: 24 federations provided valid information.

Non-paid Staff

| Anti-doping activities | Mean (%) | Lowest (%) | Highest (%) |
|--|----------|------------|-------------|
| Rules, Policy & Strategic Plan | 10.3 | 5.0 | 50.0 |
| In-competition testing | 16.3 | 4.0 | 90.0 |
| Out of competition testing | 10.1 | 2.0 | 100.0 |
| Routine results management | 4.7 | 5.0 | 25.0 |
| Non-routine results management | 19.7 | 2.0 | 90.0 |
| TUE | 21.7 | 5.0 | 95.0 |
| Information/communication | 4.6 | 1.0 | 15.0 |
| Education | 4.5 | 5.0 | 15.0 |
| Research | 6.5 | 4.0 | 60.0 |
| Other (advisory committee meetings, conferences, etc.) | 1.6 | 5.0 | 25.0 |

Note: 19 federations provided valid information.

APPENDIX IV – REVENUE SOURCE FOR FINANCING ANTI-DOPING PROGRAMMES

| Source | |
|------------------------------|-----|
| Annual budget | 45% |
| Professional tours and teams | 8% |
| IOC funding | 15% |
| Events | 13% |
| Membership | 5% |
| Federation revenues | 5% |
| Marketing revenues | 5% |
| Sanctions | 3% |
| Player forfeits | 3% |
| External stakeholders | 3% |

Note: 27 federations provided valid information.

APPENDIX V – TESTING

I. WADA LABORATORIES STATISTICS 2009 DATA

| IF | Total Samples |
|--------------|----------------|
| ISAF | 856 |
| FISA | 4,592 |
| ITU | 3,262 |
| ITF | 3,945 |
| WTF | 1,679 |
| FILA | 4,894 |
| IWF | 7,534 |
| IGF | 1,530 |
| FITA | 975 |
| UCI | 21,835 |
| FIBA | 11,150 |
| AIBA | 3,231 |
| FIG | 2,462 |
| FEI | 462 |
| FIE | 1,918 |
| IJF | 4,068 |
| IHF | 3,650 |
| IRB | 5,725 |
| UIPM | 548 |
| ISSF | 2,630 |
| FIVB | 5,121 |
| IAAF | 26,593 |
| BWF | 1,175 |
| ICF | 3,821 |
| FIFA | 32,526 |
| FIH | 2,118 |
| FINA | 13,995 |
| ITTF | 1,066 |
| TOTAL | 173,361 |

The total number of tests carried out in 2009 can be split as follows:

Test initiated by IFs:

19% (32,916) – Source: ASOIF Survey

Test initiated by LOC:

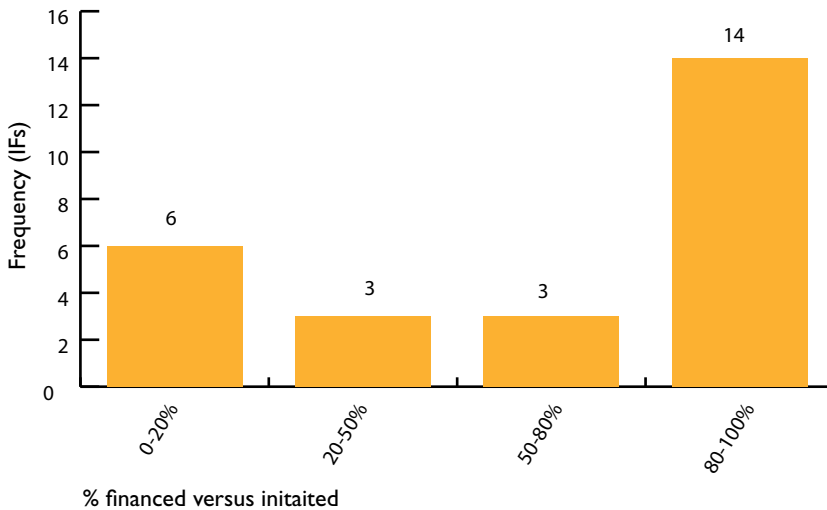
11% (19,265) – Source: ASOIF Survey

Test initiated by Others⁹: 70% (remaining tests)

⁹ Tests from other non-Olympic summer sports, winter Olympic sports, IOC, other major event organisers, clubs etc

2. DISTRIBUTION OF TESTS FINANCED BY IFs VERSUS INITIATED

Figure AI. Distribution of how much IFs transfer their testing costs to LOCs



On average 12% of total samples are financed by IFs, versus 19% initiated.

3. TESTING EFFICIENCY

Number of AAFs¹⁰: 1605

Number of ATFs: 1887

Number of AAFs financed by IFs: $1605 \times 12\% = 193$ (a)

Number of ATFs financed by IFs: $1887 \times 12\% = 226$ (b)

Note: 12% of samples are financed by IFs – see above

Number of ADRVs financed by IFs¹¹: 159 (c)

Total number of test financed by IFs: 20,192¹² (d)

Total Cost Testing: \$16.6 million (e)

% AAF: 0.95% (a)/(d)

% ATF: 1.12% (b)/(d)

% ADRV: 0.79% (c)/(d)

Cost / AAF: \$86,501 (e)/(a)

Cost / ATF: \$73,574 (e)/(b)

Cost / ADRV: \$104,781 (e)/(c)

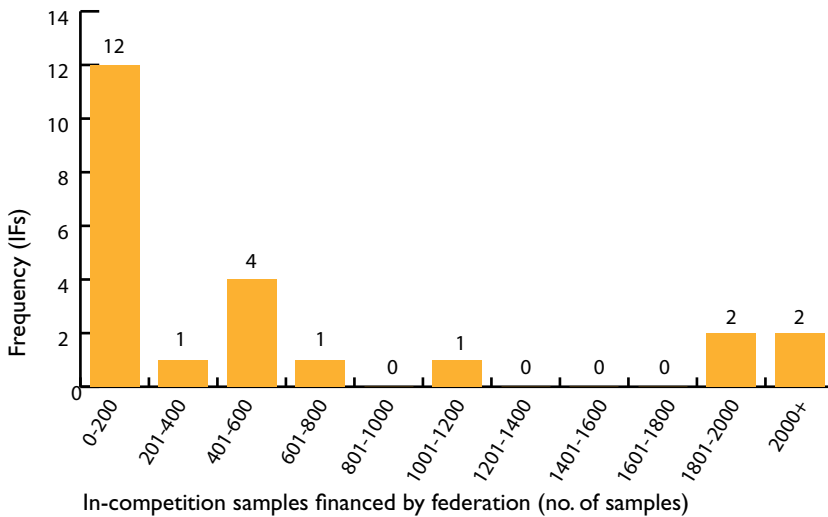
¹⁰ Source: WADA Lab Stats 2009

¹¹ Source: ASOIF Survey

¹² Source: ASOIF Survey

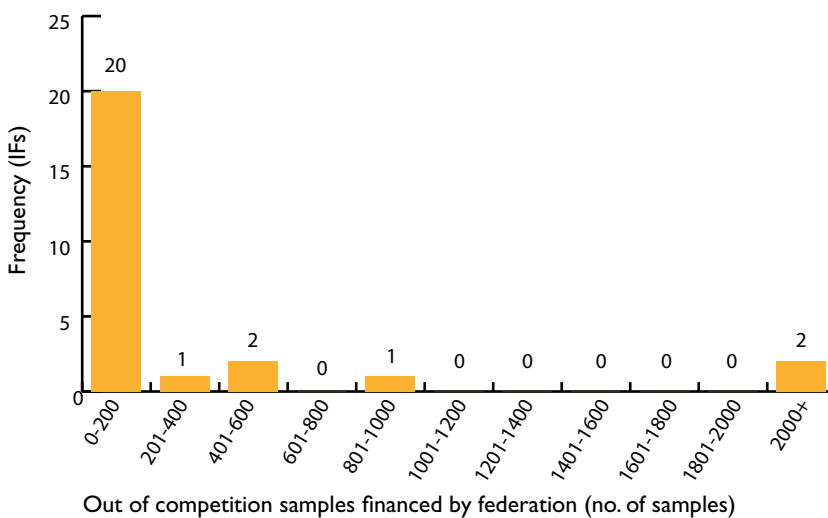
4. DETAILED DISTRIBUTION OF NUMBER OF SAMPLES BY FEDERATION

Figure A2. Distribution of number of samples initiated by federation per year for in-competition testing.



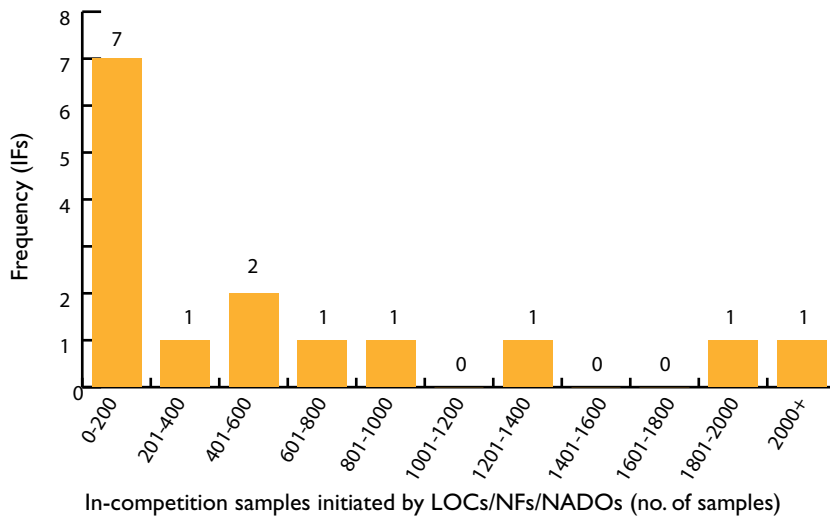
Note: 23 federations provided valid information.

Figure A3. Distribution of number of samples initiated by federation per year for Out-of-Competition testing.



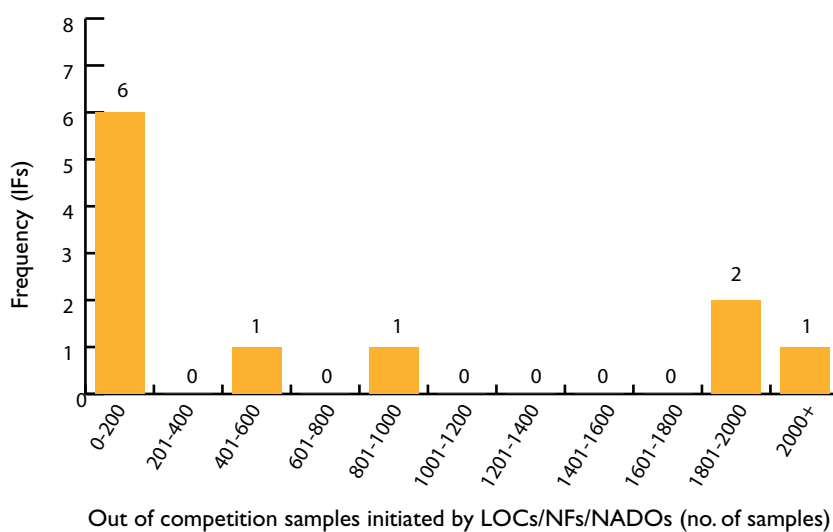
Note: 26 federations provided valid information.

Figure A4. Distribution of number of samples initiated by LOCs/NFs/NADOs per year for in-competition testing.



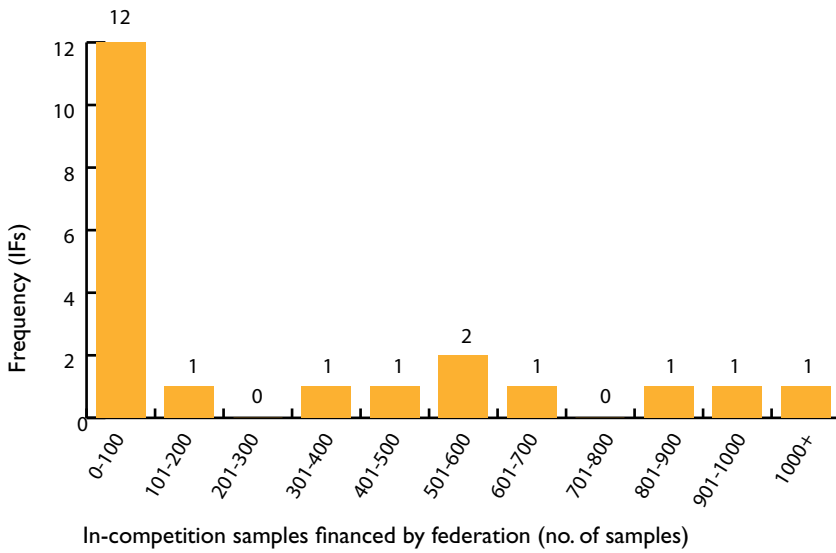
Note: 15 federations provided valid information.

Figure A5. Distribution of number of samples initiated by LOCs/NFs/NADOs per year for in-competition testing.



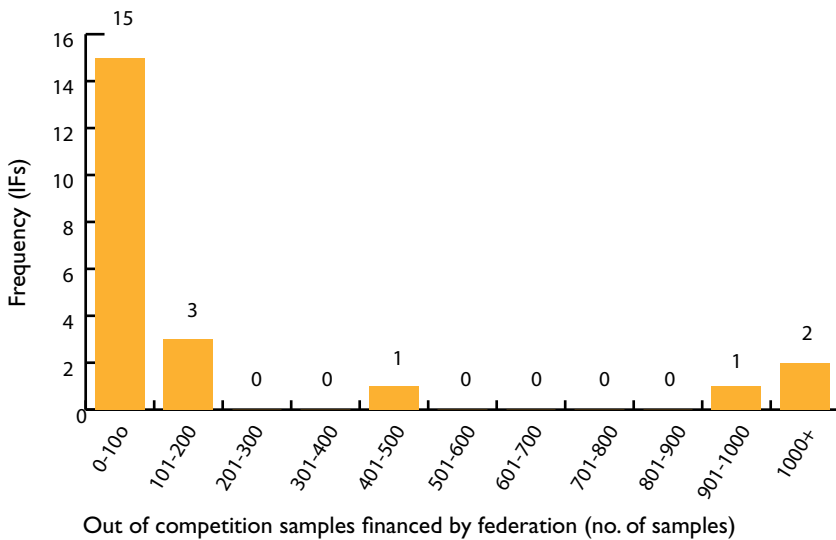
Note: 11 federations provided valid information.

Figure A6. Distribution of number of samples financed by federation per year for in-competition testing.



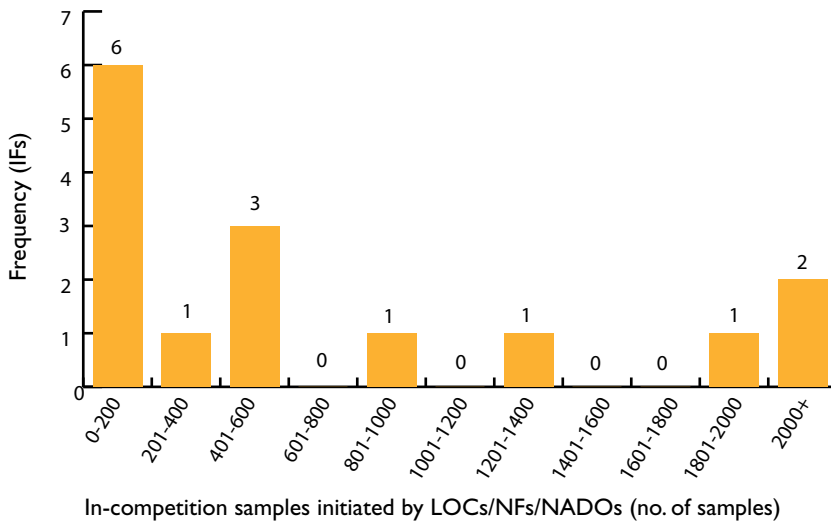
Note: 21 federations provided valid information.

Figure A7. Distribution of number of samples financed by federation per year for Out-of-Competition testing.



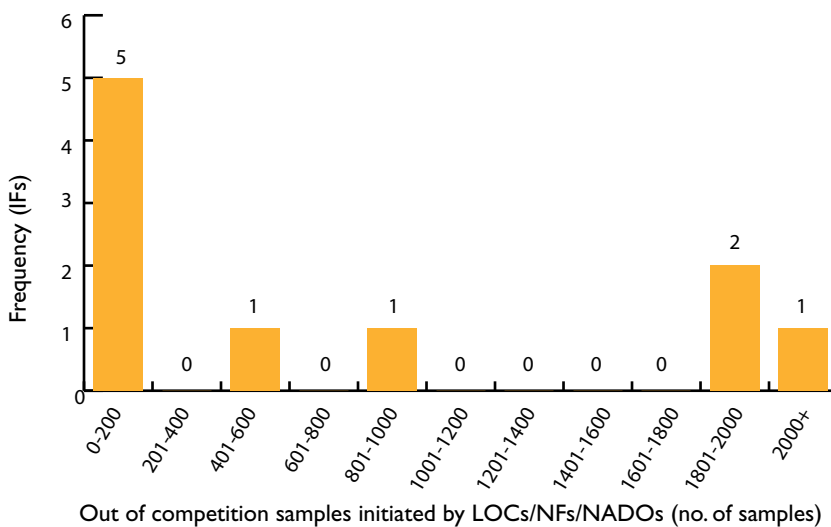
Note: 22 federations provided valid information.

Figure A8. Distribution of number of samples financed by LOCs/NFs/NADOs per year for in-competition testing.



Note: 15 federations provided valid information.

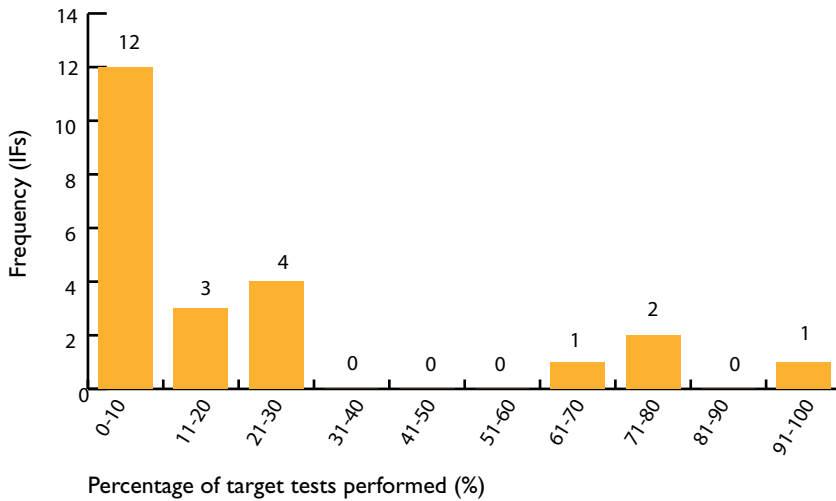
Figure A9. Distribution of number of samples financed by LOCs/NFs/NADOs per year for Out-of-Competition testing.



Note: 10 federations provided valid information.

5. TARGET TESTING DISTRIBUTION.

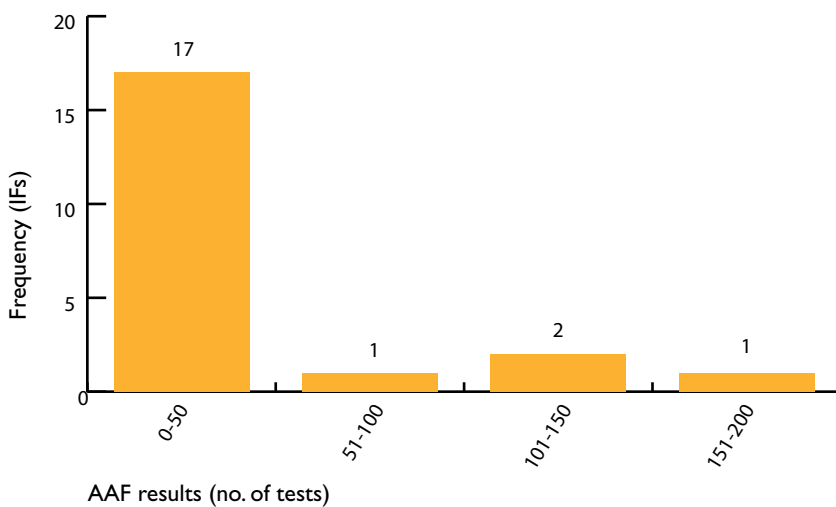
Figure AI 0. Distribution of percentage of target tests.



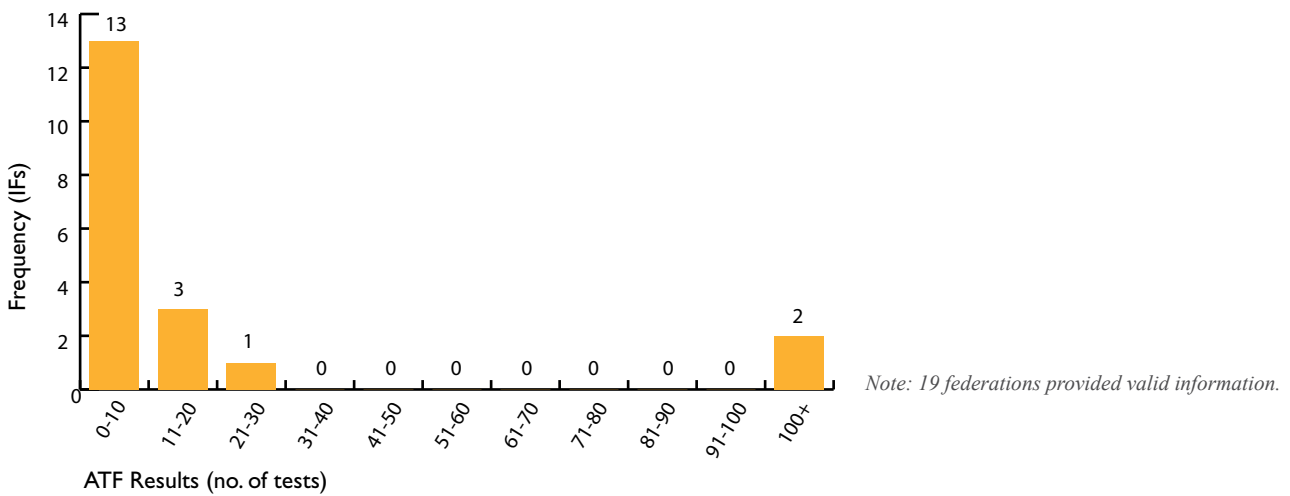
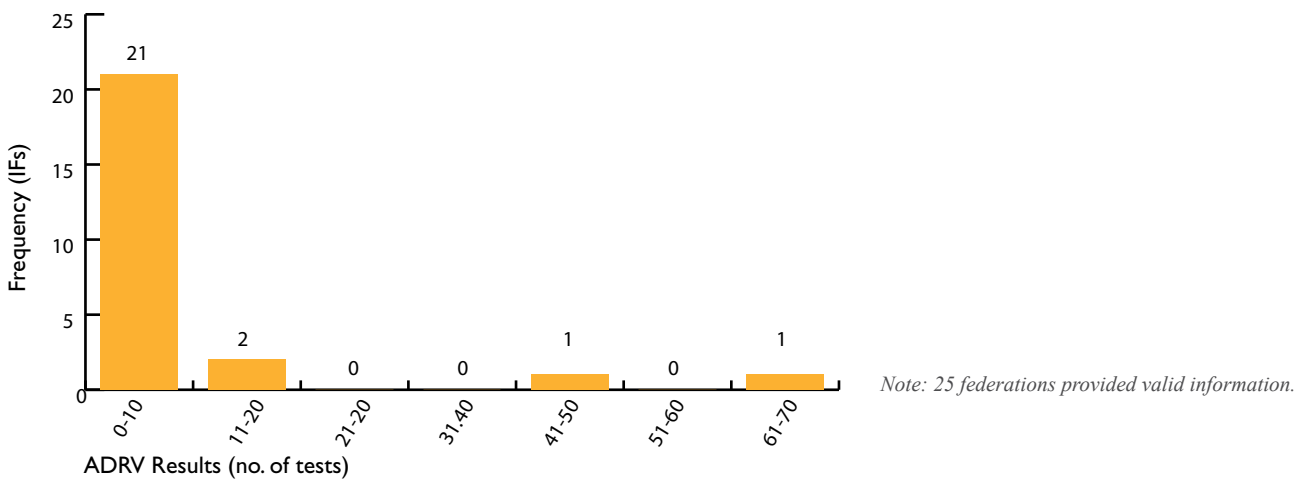
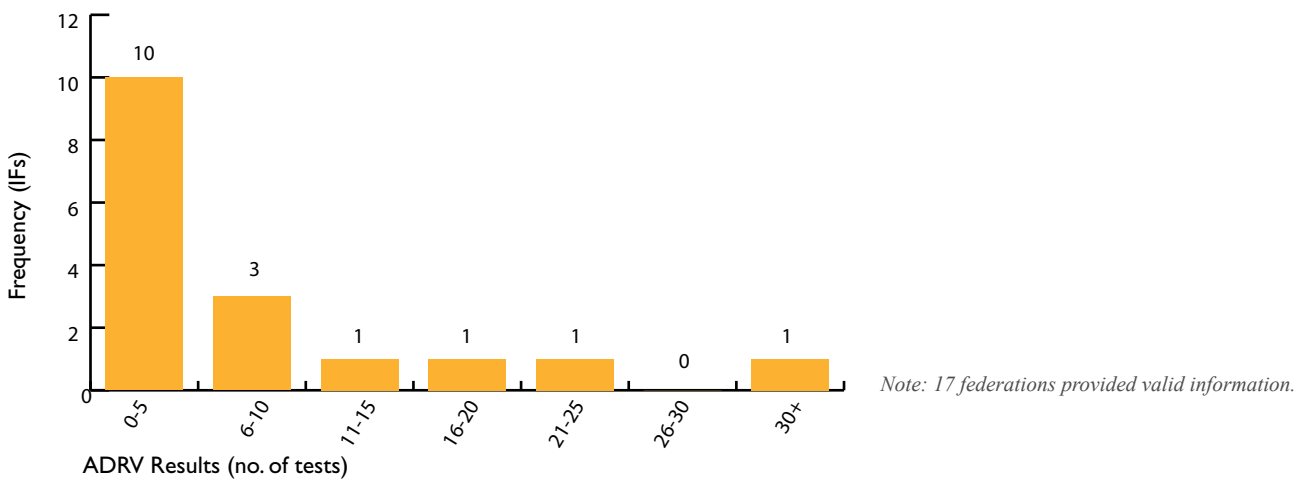
Note: 23 federations provided valid information.

APPENDIX VI – DETAILED DISTRIBUTION OF RESULTS MANAGEMENT

Figure AI 1. Distribution of tests that resulted in an AAF.



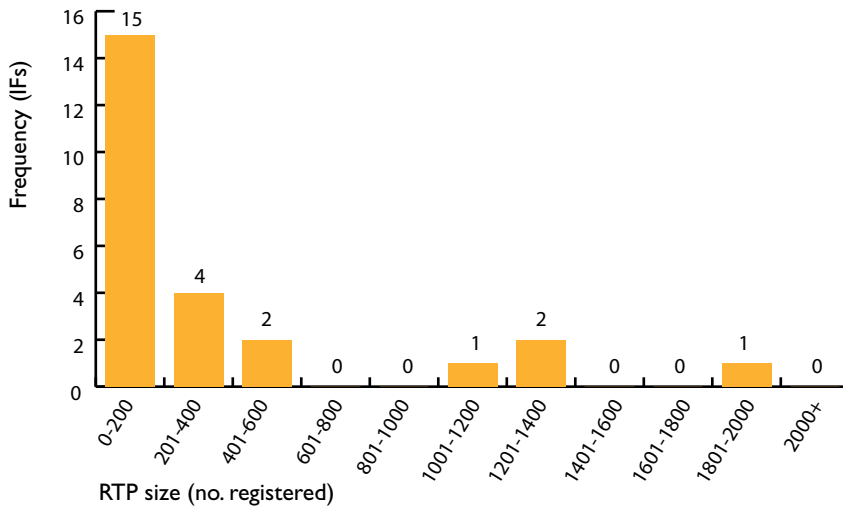
Note: 21 federations provided valid information.

Figure AI2. Distribution of tests that resulted in an ATF.**Figure AI3.** Distribution of tests that resulted in an ADRV¹³.**Figure AI4.** Distribution of tests not initiated by a federation that resulted in an ADRV.

¹³Number of test that resulted in an AAF and let to an ADRV + Number of « Other » ADRVs (refusal, evading, etc..)

APPENDIX VII – RTP SIZE DISTRIBUTION

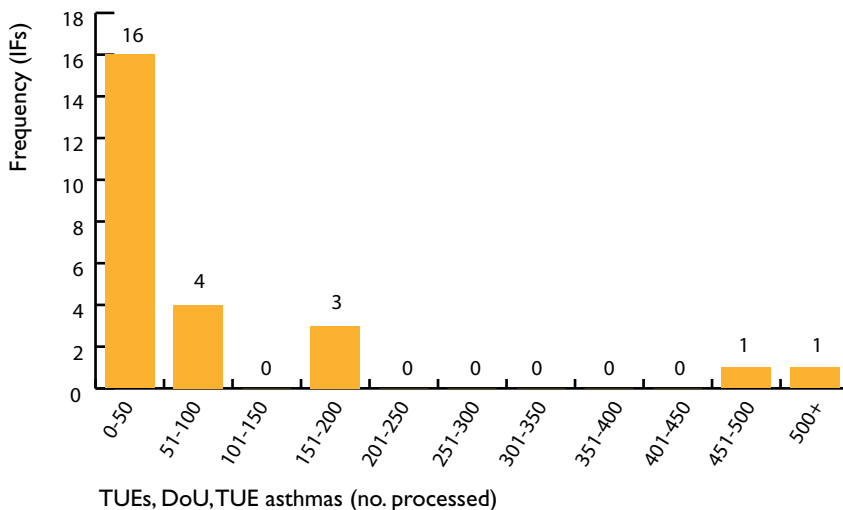
Figure AI5. Distribution of federations' RTP sizes.



Note: 25 federations provided valid information.

APPENDIX VIII – DISTRIBUTION OF TUEs AMONGST INTERNATIONAL FEDERATIONS

Figure AI6. Distribution of TUEs, DoUs and TUE asthmas processed by federations in 2009.



Note: 25 federations provided valid information.

APPENDIX IX – QUESTIONNAIRE

IF ANTI-DOPING COST SURVEY

INSTRUCTIONS - IMPORTANT TO READ BEFORE YOU START

1. Start your response by clicking on the arrow below. Use the arrows at the bottom of each page to move back and forth through the questionnaire. Your answers will be saved on the central system whenever you click on the navigation arrow at the bottom of each page. Remember to do this before closing each session.
2. You may restore and continue from the previous session by simply clicking again on the same link provided as long as you have saved during your previous session (described in 2).
3. If there are multiple persons filling in this survey, only one person should access the system at any one time using the link provided.
4. Abbreviations and technical words (denoted by*) in the survey will have attached definitions/explanations when you mouse-over these words.
5. There is no time limit for filling in each page.

If you have any questions about the survey, please email tim.goethals@asoif.com

The deadline for submitting this questionnaire is March 15th, 2010.

Thank you very much for participating in the survey.

I RESOURCES & BUDGET

I.1 Please indicate which currency you will be using to fill in the table below for ...

| | | | | | |
|-------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|---------------------------------------|
| | Currency used: | | | | |
| | USD | EUR | CHF | Other: | If other currency, please specify: |
| a) Internal/In-house cost: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| b) External/Out-sourced cost: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

I.2 In columns A and B please indicate the amounts allotted for each task. In column C please indicate which consultant/provider performed this service -indicate only costs paid by your IF – costs paid by organizers should not be included).

| | A Internal/In-house cost: | B External/Out-sourced cost: | Consultant/ Service Provider |
|--|------------------------------|---------------------------------|---------------------------------|
| Rules, Policy and Strategic Plan* | | | |
| Testing* | | | |
| In competition total: | _____ | _____ | _____ |
| Collection: | _____ | _____ | _____ |
| Laboratories: | _____ | _____ | _____ |
| Transport: | _____ | _____ | _____ |
| Other (please specify): | _____ | _____ | _____ |
| Out of competition total: | _____ | _____ | _____ |
| Whereabouts | _____ | _____ | _____ |
| Collection | _____ | _____ | _____ |
| Laboratories: | _____ | _____ | _____ |
| Transport: | _____ | _____ | _____ |
| Other (please specify): | _____ | _____ | _____ |
| Result Management: | _____ | _____ | _____ |
| Routine | _____ | _____ | _____ |
| Non-routine (AAF,ATF, FF, MT, ...) | _____ | _____ | _____ |
| TUE* | _____ | _____ | _____ |
| Information/Communication: | _____ | _____ | _____ |
| Education: | _____ | _____ | _____ |
| Research: | _____ | _____ | _____ |
| Other, please specify: | _____ | _____ | _____ |

I. RESOURCES & BUDGET

The following amounts are calculated on the basis of your answers on the previous page. Please check if the amounts are correct.

a) Internal/In-house cost: b) External/outsourced cost:

Total anti-doping budget 0000 EUR USD CHF 0000 EUR USD CHF

1.3 Are the amounts correct? Yes No

2 A - HUMAN RESOURCE (PAID STAFF)

2.1 How many people in your federation are working on Anti-Doping?

(in FTE - Full Time Employee – For example: 1 FTE equals one fulltime position or two half-time positions)

_____ FTE(s)

2.2 What is the average annual salary (including charges) of your paid staff working on anti-doping?

_____ EUR USD CHF/ per annum

2.3 Of your paid staff working on Anti-Doping, please complete the following chart based on the time they spend on each of the following activities (total needs to add up as 100%):

| | | |
|--|-------|---------|
| Rules, Policy & Strategic plan* | _____ | _____ % |
| Testing* | _____ | |
| In competition | _____ | _____ % |
| Out of competition | _____ | _____ % |
| Result Management* | | |
| Routine* | _____ | _____ % |
| Non-routine* (AAF*, ATF*, FF*, MT*, ADRV*, Appeals and Sanctions): | _____ | _____ % |
| TUE* | _____ | _____ % |
| Information/Communication* | _____ | _____ % |
| Education* | _____ | _____ % |
| Research* | _____ | _____ % |
| Other, please specify: | _____ | _____ % |

2 B - HUMAN RESOURCE (NON-PAID STAFF)

2.4 For all non-paid staff working on Anti-Doping in your federations, please provide the total estimated financial assistance allotted to cover their expenses.

2.5 Of your paid staff working on Anti-Doping, please complete the following chart based on the time they spend on each of the following activities (total needs to add up as 100%):

| | |
|--|---------|
| Rules, Policy & Strategic plan* _____ | _____ % |
| Testing* _____ | |
| In competition _____ | _____ % |
| Out of competition _____ | _____ % |
| Result Management* | |
| Routine* _____ | _____ % |
| Non-routine* (AAF*, ATF*, FF*, MT*, ADRV*, Appeals and Sanctions): | _____ % |
| TUE* _____ | _____ % |
| Information/Communication* _____ | _____ % |
| Education* _____ | _____ % |
| Research* _____ | _____ % |
| Other, please specify: _____ | _____ % |

2. HUMAN RESOURCE

2.6 Do you have revenue from Anti-Doping? Yes No

2.7 How much is your revenue from anti-doping activities?

EUR USD CHF _____ per annum

2.8 Which anti-doping activities has/have helped you gain revenues?

- Legal cases won
 TUE* applications
 Other: _____

2.9 How do you finance/cover your anti-doping costs?

3. TESTING

3.1 Does your Federation have a RTP*? Yes No

3.2 What is the size of your Federation's RTP*?

3.3 From this RTP* do you collect whereabouts info?

3.4 How many of the following do you register per annum?

FF*: _____

MT*: _____

3.5

| | In-competition | Out of competition |
|---|----------------|--------------------|
| How many samples does your federation initiate per year? | _____ | _____ |
| | Samples | Samples |
| How many samples are initiated by LOCs*/NFs*/ NADOs* per year? | _____ | _____ |
| | Samples | Samples |
| How many samples does your federation finance per year? | _____ | _____ |
| | Samples | Samples |
| How many samples does your LOCs*/NFs*/ NADOs* finance per year? | _____ | _____ |
| | Samples | Samples |

3.6 From the samples initiated by your federation how many are:

Urine _____%

Blood _____%

3.7 Is your IF helping with testing with NF* / CF* (financially or technically)

 Yes No

3.8 What is the approximate total (external) cost for testing financed by LOCs*/NFs*/ NADOs* on a yearly basis?

EUR USD CHF _____

3.9 Do you do target testing?

 Yes No

3.10 From your total testing what is the percentage of target tests performed?

_____%

3.11 Do you carry out non-analytical investigations?

Yes No

3.12 Do you have biological passports in place?

Yes No

3.13 Do you use an external drug testing service?

Yes No

4. SAMPLE ANALYSIS: LABORATORIES

4.1 For non-urine sample analysis are you only using WADA accredited laboratories?

Yes No N/A

4.2 What is the unit cost of the following:

Currency
USD EUR CHF

Urine analysis on average _____

Blood analysis on average _____

4.3 Are there additional analysis performed?

Please check all that apply:

EPO analysis

IRM analysis

Other, please specify: _____

5. RESULT MANAGEMENT

5.1 Out of your total number of tests conducted by your federation, how many have resulted in the following:

| Test | Number of tests |
|---|--|
| AAF* _____ | tests and out of these have _____ led to ADRV* |
| ATF* _____ | tests |
| Other ADRV* (refusal, evading,...) _____ | tests |

5.2 Have you financed any result management for test that were not initiated by your federation?

Yes No

5.3 What was the yearly cost of this?**Amount:****Currency used:**

USD EUR CHF Other:

**If other currency,
please specify:**

| | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

5.4 Out of these tests not initiated by your federation, how many have resulted in a ADRV*?

6.TUE**6.1 How many TUEs, DoU, TUE asthma, did you process in 2009?**

6.2 Is your administration for TUE applications outsourced? Yes No**6.3 Is there an application fee for a TUE application?** Yes (always) No Yes in certain circumstances, please specify

6.4 Do you recognize TUEs issued by NADOs*? Yes (always) No**6.5 How many of your overall TUEs are issued by NADOs* on average?**

_____ %

6.6 How long does it take to process a TUE* from the time the application is received to the time an athlete is notified?

_____ week/s

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS SURVEY!

ASSOCIATIONS

OF SUMMER OLYMPIC INTERNATIONAL FEDERATIONS



ACKNOWLEDGEMENTS

THIS REPORT WAS WRITTEN IN COOPERATION WITH THE ASOIF MEDICAL CONSULTATIVE GROUP (AMCG).

AMCG Members:

Dr Mario Zorzoli, Medical Doctor UCI / Scientific Counselor and Chairman of the AMCG
Dr Alain Lacoste, Medical Doctor FISA & Chairman of Sports Medicine Commission, FISA
Dr Margo Mountjoy, IOC Medical Commission / FINA Bureau, Sports Medicine Liaison
Dr Michel Leglise, Vice-president of FIG and Medical Doctor
Dr Juan Manuel Alonso, Medical Doctor of IAAF
Dr Stuart Miller, Head of Science & Technical, ITF
Prof Jiri Dvorak, Medical Doctor and FIFA Chief Medical Officer

Special thanks goes to Dr Katharina Grimm (Head of Medical Office at FIFA), Dr Stuart Miller and Dr Margo Mountjoy for their help in reviewing this report.

Data provided by TSE Consulting



No part of this publication may be copied, republished, stored in a retrieval system or otherwise reproduced or transmitted, in any form or by any means whatsoever, without the prior written consent of ASOIF.

This publication and its content, are the property of ASOIF.

Published by the Association of Summer Olympic International Federations (ASOIF).

© ASOIF – December 2010



ASOIF

Maison du Sport International

Av. de Rhodanie 54

1007 Lausanne

Switzerland

Phone: +41 (0)21 601 48 88

Fax: +41 (0)21 601 48 89

Email: info@asoif.com

