

REPORT OF THE ANTI-DOPING AUDIT REVIEW COMMITTEE

TO

THE WORLD AQUATICS BUREAU

13 JULY 2024

Introduction

On 3 May 2024, the World Aquatics Bureau established an anti-doping audit review committee (the Committee) to review the matter involving 23 Chinese swimmers whose samples collected in 2021 were found to have trimetazidine (TMZ) present in them (the TMZ Case).

The Committee was tasked with examining the processes and procedures employed by World Aquatics, previously known as FINA, in addressing not only the TMZ Case, but all doping cases under its jurisdiction. The objective of this review was to provide World Aquatics with recommendations that could fortify its anti-doping protocols for the future and ensure that its systems and controls are best-in-class.

For the avoidance of doubt, the Committee was not tasked to review if CHINADA's decision not to sanction the 23 Chinese swimmers who tested positive to TMZ in 2021 was right. Similarly, the Committee was not tasked with reviewing whether CHINADA handled this matter in accordance with the World Anti-Doping Code. No forensic examination or investigation of those issues took place in preparing this report.

This report represents the culmination of rigorous examination, thoughtful deliberation, and collaborative effort undertaken by the members of the Committee and the Aquatics community. Hundreds of pages of documentation were examined, a summary of the actions taken by FINA in 2021 in relation to this case, and the operating procedures of World Aquatics effective in 2021 (and still currently in force). The Committee also consulted with more than twenty Aquatic stakeholders, including international-level swimmers and coaches, National Federations, the International Testing Agency (ITA), the Executive Director of World Aquatics, the Athletes Committee of World Aquatics, a member of the Anti-Doping Advisory Body of the Aquatics Integrity Unit, a senior representative of the United States Anti-Doping Agency (USADA), and other leading anti-doping organisations.¹

Through this report, the Committee wishes to provide a comprehensive assessment of the processes involved and to offer recommendations that, once implemented, will assist in strengthening the fight against doping in Aquatic sports.

The Committee

The Committee was comprised of five members, inclusive of two athletes, a coach, and two experienced anti-doping professionals, notably as follows:

Mr. Miguel Cardenal (ESP), Chair - Mr. Cardenal is Professor of Employment Law at Universidad Rey Juan Carlos, and has devoted his activity mainly to Sports Law, for example as a member of the disciplinary committee of Spanish professional football or directing a Chair of Sports Law. He was formerly Secretary of State for Sports in Spain and is the current Chair of the Supervisory Council of the Aquatics Integrity Unit.

Mr. Ken Lalo (USA/ISR), Vice Chair – Mr. Lalo has held various positions with the Federation Equestre Internationale (FEI), notably including roles as a Tribunal Chair (1999 – 2011), a Member of the FEI Clean Sport Committee (2009-2010) and Chair of the FEI Atypical Findings Panel (as from 2021). He is also an arbitrator for the Court of Arbitration for Sport (as from 2011) and Vice Chair of the Supervisory Council of the Aquatics Integrity Unit.

Ms. Annabelle Williams OAM PLY (AUS), Member – Ms. Williams is a retired Paralympic swimmer from Australia. She won a gold medal at the 2012 London Paralympic Games in the 4 × 100 m medley relay and a bronze medal at the 2008 Beijing Paralympic Games in the Women's 100 m Butterfly (S9). Ms. Williams is an Australia-qualified attorney in private practice.

Mr. Florent Manaudou (FRA), Member – Mr. Manaudou is French sprint swimmer. He won Gold in the 50 m freestyle at the 2012 London Olympic Games, followed by Silver in the 50 m freestyle and 4x100 m freestyle at the 2016 Rio Olympic Games and Silver in the 50 m freestyle at the 2020 Tokyo Olympic Games.

¹ For the sake of clarity, the interviews with these entities and individuals do not mean that they agree with the content of the report or the recommendations

Mr. Fernando Possenti (BRA), Member – Mr. Possenti has been an elite-level, international swimming and open water swimming coach for the past 20 years. During this time, he has coached numerous Olympic and World Champions.

FINA’s Anti-Doping Operating Procedures in 2021

In 2021, FINA’s anti-doping department was comprised of two staff members who were responsible for the organisation of in-competition anti-doping tests, investigations and the management of the results of testing and investigations under its authority, including the pursuit of potential anti-doping rule violations. At that time, FINA had a limited partnership in place with the ITA, whereby the ITA was responsible for organising out-of-competition anti-doping tests and for managing FINA’s athlete biological passport and sample re-analysis programs. FINA also had a Doping Panel that acted as a first instance hearing panel for cases under the jurisdiction of FINA, as well as a Doping Control Review Board tasked with deciding on Therapeutic Use Exemption requests and making recommendations to the FINA Bureau on the anti-doping programme.

Anti-Doping Structure of FINA in 2021		
Body	Responsibilities	
FINA Anti-Doping department	(i)	In-competition testing
	(ii)	Intelligence and Investigations
	(iii)	Results management of positive tests and other anti-doping rule violations
ITA	(i)	Out-of-competition testing and risk assessment
	(ii)	Athlete Biological Passport program
	(iii)	Long-term storage and re-analysis program
FINA Doping Panel	(i)	First-instance hearing panel for doping cases under jurisdiction of FINA
FINA Doping Control Review Board	(i)	Therapeutic Use Exemptions
	(ii)	Recommendations to FINA Bureau on anti-doping programme

By way of background, and for context, when an anti-doping test organised by FINA returned an adverse analytical finding, the laboratory would inform the anti-doping department of FINA. In turn, this department would then handle the results management of the case, including the B sample analysis, imposition of any provisional suspensions and, if necessary, charging the athlete or other person with an anti-doping rule violation. If the athlete (or other person) denied the violation, the matter would be referred to the Doping Panel, which would render a decision on the matter, including on whether any violation was committed, and if so, what consequences should be imposed.

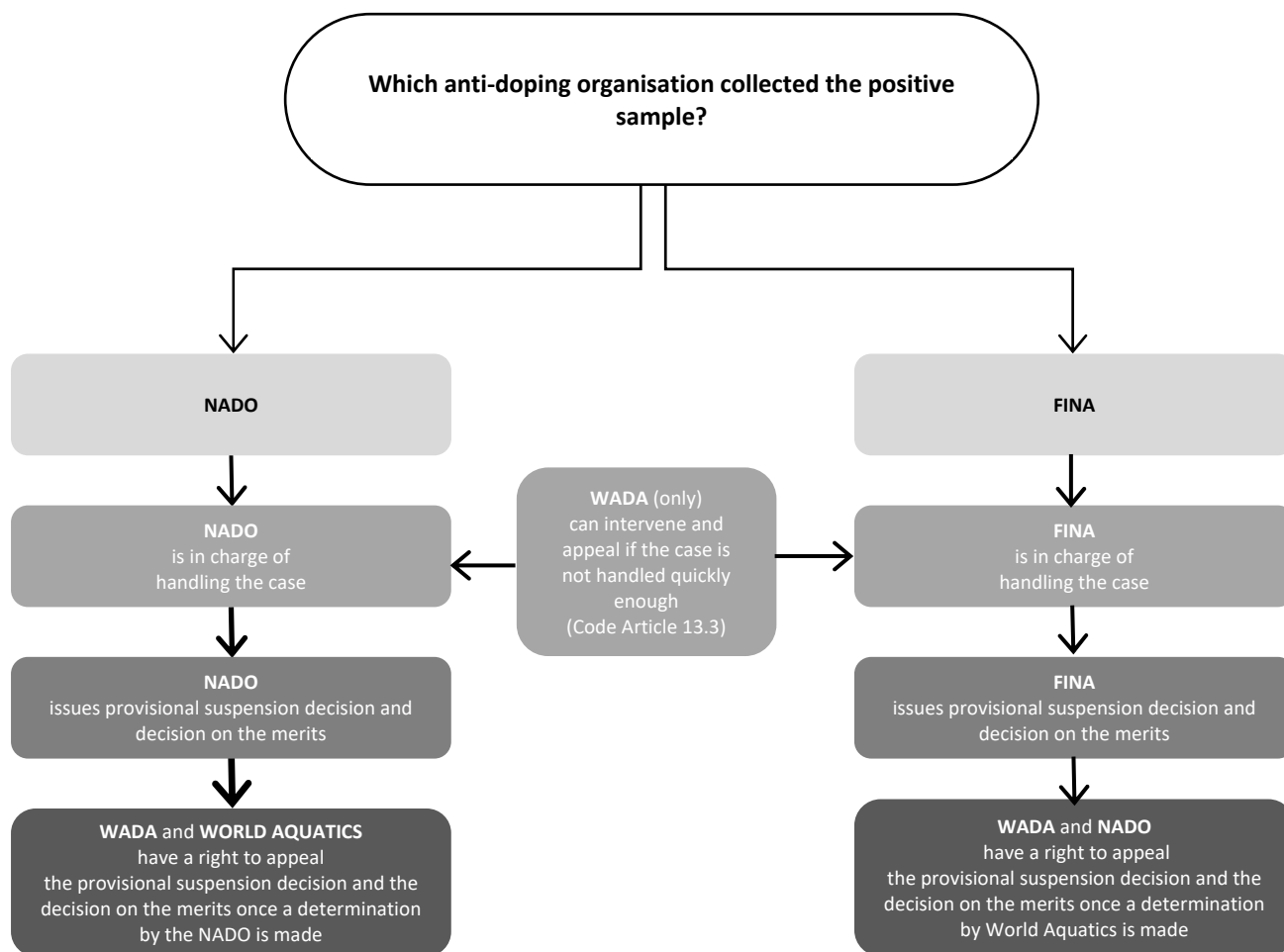
When an anti-doping test organised by a NADO (such as CHINADA) on an Aquatics athlete returned an adverse analytical finding, in accordance with Article 7.1 of the World Anti-Doping Code, that particular NADO (and not FINA) would be responsible to charge and/or provisionally suspend the athlete or individual on the matter. FINA would have a right of appeal if it disagreed with decisions taken by the NADO in the management of the results. For the sake of clarity, FINA could appeal both the decision on provisional suspension and the decision on the merits. This said, the Committee is not aware of FINA (or any International Federation for that matter) ever filing an appeal on imposing (or not imposing) provisional suspension.

FINA had the following procedure in place for the review of such cases in 2021:

- (i) The NADO would inform WADA and FINA of any positive test resulting from doping control arranged by the NADO by copying them on the notification of the positive test results that the NADO sent to the athlete, or alternatively through WADA’s secured platform called ADAMS.

- (ii) The letter sent by the NADO to the athlete confirmed inter alia whether or not the NADO was provisionally suspending such athlete pending resolution of the matter.
- (iii) If yes, FINA would ensure the implementation of the provisional suspension of the athlete at its events.
- (iv) If no, WADA and FINA could consider the case, and if it was determined that (in accordance with Article 7.4 of the World Anti-Doping Code) a provisional suspension should have been assessed by the NADO, either entity could appeal the decision by the NADO not to impose a provisional suspension on the athlete to the Court of Arbitration for Sport (CAS).
- (v) In either case, Legal Counsel with experience in anti-doping matters (either internal or external) would assess the decision to impose (or not) a provisional suspension against the applicable anti-doping rules.
- (vi) If the Legal Counsel considered that the decision to not impose a provisional suspension should be appealed to CAS, it would discuss the matter with the Executive Director of FINA and a final determination would be taken on how to proceed. If it was considered by FINA that no appeal on provisional measures should be filed, then FINA would await the final decision of the NADO on the merits of the matter and then consider whether an appeal on the merits should be filed with the CAS.
- (vii) Once a NADO issued its final decision on the merits against the athlete, a copy of the decision was sent to WADA and FINA. This was done either in the form of an email or on ADAMS.
- (viii) The final decision of a NADO was similarly reviewed by Legal Counsel, either internally or externally, depending on the complexity of the legal issues or facts at stake. In some cases, Legal Counsel would request the assistance of scientific experts if the matter was scientifically complex.
- (ix) If Legal Counsel considered that the NADO's decision required further consideration, the NADO would be asked to provide the complete case file on the matter. Further consideration and review would then be conducted by Legal Counsel and/or scientific experts.
- (x) Once it had completed its review of the decision, Legal Counsel would discuss the NADO decision, including any opinions of external Legal Counsel or scientific experts, with the Executive Director. A determination of whether an appeal to the CAS should be filed against the NADO decision was then taken.
- (xi) If an appeal was filed, it was handled by either internal or external Legal Counsel (or both). The appeal would primarily focus on (i) whether an anti-doping rule violation was committed; and/or (ii) whether the sanction imposed by the NADO was correct.
- (xii) The results of any appeal were notified to the FINA Sports Department and implemented accordingly. While FINA did publish a log of suspensions issued by FINA/its hearing panel, it did not publish suspensions issued by NADOs.

The following flow chart summarises the path of decision making with respect to NADO decisions and FINA decisions in 2021:



FINA’s role in the matter involving the TMZ Case

At the outset, and as set out above, the Committee notes that FINA’s role in relation to this case was limited, given that it was not in charge of the results management of these positive tests. The samples had all been collected by CHINADA, which meant that CHINADA was in charge of the handling, investigation and initial decision making on the case (see World Anti-Doping Code Article 7.1).

In accordance with the World Anti-Doping Code, FINA’s primary role in this matter arose only when CHINADA issued its decision, which closed the case, which in essence meant that (a) the athletes were not to be provisionally suspended; and (b) the case was to be resolved without any sanction being imposed on the athletes. FINA did not have any right to intervene until those two decisions were made by CHINADA (and in this case they were made in a single determination). In this respect, the Committee notes as follows:

- (i) In early April 2021, CHINADA informed WADA and FINA that they received notice of positive tests from 28 samples taken from 23 Chinese swimmers for TMZ following sample collections at the Chinese National Swimming Championships held from 31 December 2020 through 3 January 2021. CHINADA informed both WADA and FINA that they had opened an investigation on the matter, and that they would keep both WADA and FINA updated on their findings.

- (ii) Approximately six weeks later, in mid-May 2021, FINA wrote to CHINADA to ask whether there was any update on the case. WADA was copied on the email. CHINADA replied that it was still investigating the matter and that it would let World Aquatics and WADA know once it reached a final determination.
- (iii) In mid-June 2021, CHINADA sent its final decision to WADA and FINA. Its decision concluded that the positive tests resulted from contamination of the food served in the hotel. Within days, FINA requested the complete case file from CHINADA, who complied.
- (iv) Approximately 2 weeks later, towards the end of June 2021, internal Legal Counsel completed his review of the case file received from CHINADA. Following internal discussion, FINA retained Prof. Jordi Segura, former director of a WADA-accredited laboratory in Barcelona and Chair of the former FINA Doping Control Review Board, to review the file materials and provide an expert opinion on the scientific aspects of the matter. Within approximately one week, Prof. Segura provided his opinion to Legal Counsel on the specific scientific questions he had been asked to answer. His opinion was that contamination of food or food products in the dining kitchen of the athletes' hotel was more likely than not the source of the positive tests.
- (v) As its deadline to appeal was approaching, FINA filed a protective statement of appeal at CAS against the CHINADA decision, in order to preserve its appeal rights and to gain more time to review the documents and discuss the case with WADA.
- (vi) Upon review of Prof. Segura's report and opinion, FINA consulted both WADA and external Legal Counsel to obtain advice on the matter. Following these consultations, FINA confirmed that no appeal was warranted under the circumstances and the matter was closed.

Findings and Recommendations of the Committee

At the outset, the Committee wishes to confirm that it was given complete liberty to conduct its work and provide its findings and recommendations without any interruptions or intervention. The Committee found World Aquatics to be transparent and collaborative throughout this audit review.

The Committee has not identified any irregularities, mismanagement or cover-up by FINA in its review of the TMZ Case or in its decision not to appeal the CHINADA decisions in that case. The process and procedure followed by FINA in 2021 was in accordance with both the operating procedures of FINA at that time, generally accepted operating procedures of other International Federations, and its obligations under the World Anti-Doping Code.

As from 1 January 2022, World Aquatics extended its partnership with the ITA by delegating additional anti-doping roles and responsibilities, including results management, to the ITA.² The ITA is an international organisation that was created to manage anti-doping programs, independent from International Federations, Major Event Organisers and all other anti-doping organisations requesting support. The main purpose of this extended partnership was to ensure its anti-doping program was handled independently and expertly. The Committee applauds this move, noting that however strong an International Federation's decision-making processes might be, there is always a perception that it is under a potential conflict of interest when it comes to handling integrity cases involving elite athletes. Delegating results management to an independent body is a good way to address and remove this perceived conflict. Additionally, a global organisation handling such matters for most International Federations in the Olympic Movement is likely to provide more resources and expertise than a single International Federation.

With this delegation, the Committee notes four fundamental changes.

First, the ITA is now solely responsible for planning and conducting drug testing for World Aquatics and for managing the results of all such tests on behalf of World Aquatics.³

Second, the ITA is now charged with sole responsibility to liaise with NADOs on their management of the results of their own testing and all of their related decision making. Any perceived shortcomings and inconsistencies by the NADOs are

² The ITA handles results management until the adjudication phase which is handled by the AQIU and CAS ADD.

³ *Idem*

duly addressed by the ITA, and once the ITA completes its independent review of NADO decision-making, the ITA files a report with the Aquatics Integrity Unit, an operationally independent unit of World Aquatics which was created in 2023 to ensure that all integrity-related matters in Aquatics were handled expertly and independently. The Aquatics Integrity Unit then decides based on the ITA's recommendation whether an appeal should be filed against the decision (or non-decision) of the NADO.

Third, the ITA is responsible for all intelligence and investigation responsibilities of World Aquatics under Article 5.7 of the World Anti-Doping Code. In this respect, a dedicated employee of the ITA is responsible for investigation gathering, due diligence, and athlete target testing. Here, the Committee wishes to highlight that all intelligence as it concerns the TMZ Case was passed to the ITA in 2022 and, in turn, the ITA began building a dossier on various athletes. The Committee has learned that at least one member of the ITA intelligence team attended recent World Aquatics Championships to collect intelligence on various athletes and in doing so, established useful relationships with Aquatics stakeholders in support of the ITA mandate.

Fourth, World Aquatics has delegated the responsibility to rule on charges that the anti-doping rules have allegedly been violated to the Court of Arbitration for Sport Anti-Doping Division (CAS ADD). This means that full and complete decision making on whether an individual has committed an anti-doping rule violation, and if so, what sanction should be applicable, is now being handled by the CAS ADD instead of the old FINA Doping Panel.

This extended partnership increased the budget allocated to anti-doping by World Aquatics to more than USD 3 900 000. While this will need to be continuously evaluated, the Committee believes that for the moment, such resources are appropriate in proportion to the size of the World Aquatics. The ITA also acknowledged that the anti-doping program of World Aquatics is comprehensive, especially with regards to its Out-of-Competition program when comparing to other International Federations.

The Committee also highlights that since late 2021, World Aquatics now publishes its testing statistics on a dedicated AQIU website. The number of tests conducted by World Aquatics, along with distribution metrics across disciplines, gender and continents, are now published on a quarterly basis.⁴ The number of times each athlete has been tested is also published on an annual basis.

Notwithstanding the above, the Committee suggests that World Aquatics may consider taking further measures and actions to strengthen its anti-doping program, instil the utmost confidence from its stakeholders, and maintain a first-in-class mindset and approach. The Committee makes ten specific recommendations:

Recommendation #1: Delegation of appeals of decisions from NADOs to the ITA

Where testing is conducted by a NADO, the NADO is responsible for all results management. This includes both issuing (or not) any provisional suspension and taking a determination on the merits. As was the situation with the TMZ Case, World Aquatics has no right to supplant that authority. Instead, it must await the decision of a NADO and then decide whether to appeal such decision. Consequently, World Aquatics (and all International Federations) find themselves relying on a NADO's investigation without any ability to intervene in their handling of a matter. And, in turn, must wait for such decision and receipt of a case file before deciding whether to appeal.

As explained above, final determinations on whether a decision of a NADO should be appealed are currently made by the Aquatics Integrity Unit in consultation with the ITA. To increase stakeholders' confidence in a completely independent process, World Aquatics may consider externalising this process: the ITA could decide independently of the Aquatics Integrity Unit whether the decisions of NADOs should be appealed, for both provisional suspensions and decisions on the merits.

Recommendation #2: Establish time limits for NADOs to impose (or not) provisional suspensions

As highlighted by the TMZ Case, International Federations have no authority to assess a provisional suspension on an athlete in cases arising from testing conducted by a NADO, but instead must wait until such time as the NADO affirmatively decides

⁴ The testing statistics can be found here: <https://aquaticscintegrity.com/statistics/>

whether or not to provisionally suspend an athlete (which could take several months). Only then may an International Federation decide to appeal such decision.

In all cases where a provisional suspension is not timely imposed by a NADO, or in cases where no final decision on the merits is taken after a reasonable time, International Federations should be granted the ability to take necessary actions such as the imposition of a provisional suspension or the takeover of results management process from a NADO.

Suggested wording could be submitted by World Aquatics to propose this change as part of the current and ongoing World Anti-Doping Code review process.

Recommendation #3: Ensure all pending anti-doping cases are resolved before World Aquatics Competitions

The general consensus among athletes interviewed is that they do not want to compete against athletes who have anti-doping charges pending against them. This may be avoided by a provisional suspension, but it cannot be guaranteed in every case that a provisional suspension is indeed imposed (or that it is upheld if challenged by the athlete). Thus, the Committee agrees that it is paramount to make best efforts to resolve ongoing cases before an athlete competes in an international competition. Here, the Committee understands that the ITA and WADA put great efforts in place to ensure that any ongoing cases against athletes due to compete at the 2024 Olympic Games are resolved before the competition starts or that the outcome would not impact the 2024 Olympic Games. The Committee recommends that this approach be extended to all elite World Aquatics competitions.

If the case is handled by a NADO, follow-up requests should be systematically sent to the NADOs prior to the start of competition to ask them to issue a decision or impose a provisional suspension prior to the start of the event. If there is still no action after due notice has been given, the failure to decide should be considered as a decision not to impose a provisional suspension thereby subjecting such to CAS, seeking an expedited process and decision on that appeal.

Whenever possible, World Aquatics should ensure that the case is resolved before the start of the event, or otherwise, that a provisional suspension is imposed on the athlete either under Article 7.4.1 of World Aquatics' anti-doping rules (mandatory provisional suspension) or under Article 7.4.2 of those rules (optional provisional suspension).

Recommendation #4: Publish provisional suspensions, establish a communication policy with more testing statistics

To increase the absolute trust of athletes and other stakeholders, the Committee recommends that the following additional information be published on the AQIU website:

- (i) Names of all Aquatics athletes under provisional suspension (whether by World Aquatics or by a NADO) for a potential anti-doping rule violation. World Aquatics currently does not publicly disclose provisional suspensions.
- (ii) A communication policy detailing the process for publicly announcing provisional suspensions and anti-doping rule violations.
- (iii) Prior to each Olympic Games and World Championships, a report outlining how many times each international-level athlete who has been selected to compete in the event was tested in the six-month period prior to the start of the event and by whom.

While World Aquatics is not required to publish this information under the World Anti-Doping Code, and while the Committee appreciates the view that such disclosure may require the publication of certain sensitive data, the Committee considers this disclosure imperative to increase the trust of athletes and other stakeholders.

Recommendation #5: Consider conducting out-of-competition testing independent from the local NADO and laboratory when appropriate

While NADOs and WADA-accredited laboratories should be trusted, and the system has various checks and balances in place to ensure this trust, concerns were raised by athletes about the capabilities and lack of independence of certain

NADOs and local laboratories. The athletes perceive conflicts of interest when national entities are in charge of supervising their own athletes due to take part in international competitions. The Committee recognises the important role of NADOs in the fight against doping in sport. However, to address these concerns, the Committee recommends that when feasible, the ITA attempt to conduct a certain number of out-of-competition tests without using local NADOs and local laboratories, especially whenever they are conducting a particularly targeted testing mission and in advance of major international events. Particular consideration will need to be made to the costs associated with this and the scarcity of accredited laboratories worldwide, especially in time-sensitive testing scenarios.

Recommendation #6: Increase opportunities for athletes to engage with the ITA

The Committee firmly believes that increasing the involvement of athletes into the anti-doping program would help increase their trust in the system. The Committee understands that the Athletes Committee of World Aquatics occasionally meets with the ITA at World Aquatics Championships, but no fixed, yearly meeting is in place, and that the ITA annual report for World Aquatics is not delivered directly to the Athletes Committee. The Committee recommends that such recurring meeting be organised between the ITA and World Aquatics' Athletes Committee. The ITA activity report should also be shared with the Athletes Committee beforehand to allow the Athletes Committee to consult athletes and transmit its questions and comments in advance of the meeting.

Recommendation #7: Increase anti-doping education

The Committee was surprised by the lack of understanding by athletes, administrators and other stakeholders about the roles and responsibilities of the different anti-doping organisations within the anti-doping system, notably as it concerned the interplay between WADA, NADOs and World Aquatics. The Committee recommends that World Aquatics expands its anti-doping education program and devotes additional resources to this, especially in light of the extensive requirements that must be implemented pursuant to WADA's International Standard for Education. World Aquatics should have a well-defined education plan for each year which is implemented by staff fully dedicated to education and prevention. World Aquatics, through the Aquatics Integrity Unit, should consider hiring an education and prevention coordinator to lead on this front. This coordinator should ideally be a former Aquatics athlete who can summarise and explain the complex anti-doping rules in simple terms using engaging content such as short videos and social media platforms. The subjects to focus on should include whereabouts obligations, the principle of strict liability, the impact that prohibited substances have on performance and more.

Recommendation #8: Expand mandatory education course requirements

Athletes are subject to very stringent and complex anti-doping regulations, which they have accepted in order to uphold the integrity of the sport. World Aquatics must make efforts to educate athletes and other stakeholders on anti-doping regulations and procedures, to prevent non-intentional violations due to a lack of understanding of the rules. World Aquatics should invest more resources in shaping a mandatory pre-competition course to ensure that this objective is achieved. While completion of an online education course on anti-doping is already mandated by World Aquatics for all athletes participating in World Aquatics Championships, the Committee considers that more is required. The Committee suggests that such requirement be expanded not only in context (ensuring that the online course is reflective of current trends), but also in a way that coaches and national federation administrators be also required to complete such courses prior to participation (by themselves or their athletes) in any World Aquatics events. Anti-doping must be viewed as a shared responsibility among all stakeholders.

Recommendation #9: Reconsider the purpose and roles of the Anti-Doping Advisory Body

Since all anti-doping responsibilities of World Aquatics have now been delegated to the ITA, except for education and adjudication of anti-doping rule violations, the role of the Anti-Doping Advisory Body within the AQIU is unclear and causes confusion among stakeholders. For example, the World Aquatics Constitution says that one of the roles of the Anti-Doping Advisory Body is to assist the investigatory body of the Aquatics Integrity Unit in any doping-related investigation, but all anti-doping investigations are now independently conducted by the ITA. The Committee recommends that World Aquatics reconsiders the purpose and roles of the Anti-Doping Advisory Body. In doing so, it should ensure that the ITA is able to continue to make its investigations and decisions completely independently from any other body.

Recommendation #10: Suggested amendments to the World Anti-Doping Code

The Committee understands that a stakeholder consultation process for the 2027 World Anti-Doping Code & International Standards is currently ongoing. In the opinion of the Committee, the following amendments to the World Anti-Doping Code may be beneficial if a situation similar to the TMZ Case arises again in the future:

- (I) Under the current World Anti-Doping Code, anti-doping organisations do not have any specific deadline by which they must notify an athlete of an adverse analytical finding after they have received the results from the laboratory. The World Anti-Doping Code simply notes that such organisations must only notify athletes “promptly” after completing initial review of the case. In the opinion of the Committee, the World Anti-Doping Code should specify that athletes must be notified of an adverse analytical finding within a set number of days after receipt of the results from the laboratory (e.g. 45 days), unless WADA grants an extension of this deadline for valid reason.
- (II) Similarly, under the current World Anti-Doping Code, there is no set deadline by which an Anti-Doping Organisation must impose a mandatory provisional suspension. The World Anti-Doping Code says that the mandatory provisional suspension must be imposed “promptly upon or after notification to the Athlete”. In the opinion of the Committee, the World Anti-Doping Code should specify that mandatory provisional suspensions must be imposed within a set number of days after notification of the athlete. If the mandatory provisional suspension is not imposed within the deadline, the Code should affirmatively state that this will be deemed a decision not to impose a provisional suspension and thereby will be appealable. Expedited decision making should be implemented with expedited timelines where Olympic Games or elite World Aquatics competitions are approaching.
- (III) If the anti-doping organisation gives the athlete the right to a provisional hearing before imposing a (mandatory) provisional suspension (as permitted by the World Anti-Doping Code), and the athlete establishes that the violation is likely to be due to contamination, the anti-doping organisation can decide not to impose the provisional suspension (with its decision being notified to and being subject to appeal by others). At the moment, it does not spell this out. Instead, the World Anti-Doping Code only talks about a hearing panel eliminating a provisional suspension because the violation likely involved a contaminated product. The Code should be amended to state this point expressly.
- (IV) Article 14.3.1 of the World Anti-Doping Code provides that it is up to the anti-doping organisation with Results Management Authority to publish provisional suspensions. The World Anti-Doping Code should be changed so that publication becomes mandatory in all cases, or otherwise, World Aquatics should oblige itself under Article 15.1.1.1 to give effect to those provisional suspensions and publish them itself.
- (V) The question of whether all decisions should be made public was debated at length amongst the Committee. Under the current World Anti-Doping Code, decisions can only be published without the athlete’s consent if an anti-doping rule violation was found to have been committed. Otherwise, the case must remain confidential. The advantage of this rule is obviously that it protects the athletes who did nothing wrong from having their name associated to doping in the public domain. This said, the Committee is of the view that it could be preferable to amend the World Anti-Doping Code to ensure that all anti-doping decisions are made public, even those for which the athletes were found not to have committed any anti-doping rule violations. Publishing those decisions would increase transparency and would ensure that all decisions are subject to public scrutiny. This said, the Committee considers that it would be crucial to consult the World Aquatics Athletes Committee on this question before officially submitting the proposal of amendment to the World Anti-Doping Code to WADA.

Athletes' Trust

The Committee notes that the TMZ Case has weakened the trust of the Aquatics community, notably among the athletes, in the anti-doping system. In particular, questions were raised as to whether anti-doping rules are applied consistently in all countries, in particular as it relates to the principle of strict liability. The frustration was particularly strong with athletes who felt they were denied a medal for which they had worked their whole life. The Committee does not take it upon itself to rebuild and maintain this trust but does consider it appropriate to highlight certain actions which it believes may help generate a certain level of reassurance in the work being conducted by World Aquatics, with the assistance of the ITA and the Aquatics Integrity Unit.

- (I) Prior to the disclosure of the TMZ Case, World Aquatics increased the number of tests it conducts during Olympic years. Notably, a certain number of athletes from specific nations will be tested four times by the ITA (in addition to their own NADO testing) between 1 January 2024 and the opening of the Olympic Games Paris 2024. A certain number of other athletes, including Chinese athletes taking part in the Paris Olympic Games, will be tested by the ITA no less than 8 times during this same period. The ITA will use its best efforts to have all such tests of Chinese athletes conducted by a Sample Collection Authority other than CHINADA, and to have the samples analysed by laboratories outside of China.
- (II) World Aquatics will publish the results of its pre-Games testing prior to the opening ceremony of the Olympic Games Paris 2024 to ensure complete transparency.
- (III) World Aquatics conducts a significant number of out-of-competition tests every year (more than 3,000 tests for a total of around USD 3,000,000 per year), which is more than many other International Federations.
- (IV) The ITA has a designated intelligence team that collects available information, including the information learned as part of the TMZ Case, to target test athletes and teams. The Committee understands that World Aquatics intends to commit further resources to intelligence gathering in 2025 and beyond.

Although athletes are subject to the rules of many different anti-doping organisations (e.g. World Aquatics, NADOs, WADA, the IOC), it was clear from the interviews conducted by the Committee that the athletes and coaches consider World Aquatics as their main point of contact for everything related to their sport, including anti-doping. World Aquatics must accept this challenge and intensify its communication with athletes for the following reasons:

- (I) Athletes are entitled to the highest standards of objectivity and avoidance of any possible conflict of interest. This is the context for the measures already taken by World Aquatics and those suggested in this report, such as delegation to the CAS ADD and the ITA.
- (II) Athletes are entitled to a level playing field, where the anti-doping rules, including those on strict liability, provisional suspensions and disqualification are applied consistently.

Concluding Remarks

This report is submitted with full unanimous support of all Committee members. While views and perspectives may have differed among members during this process, the Committee considers this report reflective of all collective discussions and interviews, without any objection.

What is extremely clear, and what cannot be taken for granted, is that the trust of the Aquatics community is vital to the continued success of World Aquatics as an International Federation. The suggestions set out herein are aimed to provide a roadmap for World Aquatics to ensure that trust is strengthened both now and into the future.