

MP 136/1990

**GOVERNMENT RESPONSE  
TO THE RECOMMENDATIONS OF  
THE SENATE STANDING COMMITTEE ON  
ENVIRONMENT, RECREATION AND THE ARTS  
INQUIRY INTO DRUGS IN SPORT**

**NOVEMBER 1990**

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On 19 May 1988, the Senate Standing Committee on Environment, Recreation and the Arts received the following reference:

"The use by Australian sportsmen and sportswomen of performance enhancing drugs and the role played by Commonwealth agencies"

2. The Committee made two reports:

- . May 1989 Interim Report, which focused on identification of the extent of the problem and matters related to the Australian Institute of Sport; and
- . May 1990 Second Report, which focused on "high risk" and professional sports, youth and international agreements.

3. Altogether, the Committee made 65 recommendations that are far reaching, touching on all the issues of concern in this problem area.

4. Many of the recommendations of the Committee are directly within the province of the Commonwealth Government and its various agencies. To implement other recommendations, however, will require detailed negotiations with the States, with various national sporting bodies, the Australian Medical Association, Pharmaceutical and Medical Boards and international agencies. In all cases, the relevant authorities have been made aware of the recommendations of interest to them and negotiations have been initiated. In many cases this has resulted in satisfactory outcomes to implement the recommendations of the Committee. In other cases, negotiations are continuing and are likely to do so for some considerable time. The Committee, recognising the complexity of the issues, envisaged that the process could take approximately 12 to 18 months.

5. While the recommendations cover the full range of issues pertaining to the Reference, for ease of reporting on progress towards implementation they can be categorised as follows:

A: Recommendations relating to the formation and operation of the Australian Sports Drug Agency (ASDA) and related matters

1 to 5 of the Interim Report and 1, 6, 19, and 48 to 52 of the Second Report.

- B: Recommendations relating to Appeals Mechanisms and the Proposed Tribunal  
4 of the Interim Report and 4 and 5 of the Second Report.
- C: Recommendations Requiring Consideration by Commonwealth, State and Territory Sports Ministers  
1, 5(iv) and 11 of the Interim Report and 10, 11, 37 and 45 of the Second Report.
- D: Recommendations Requiring Consideration by Commonwealth, State and Territory Health Ministers, and related matters  
6, 8, 9 and 10 of the Interim Report and 24 to 31, 38 and 40 to 44 of the Second Report.
- E: Recommendations directly impinging on the responsibilities of the Australian Sports Commission (ASC)  
12 of the Interim Report and 2, 3, 7, 12, 13, 14, 17 and 20 of the Second Report.
- F: Recommendations relating to Professional Sports  
8 to 11 of the Second Report.
- G: Recommendations relating to Weightlifting, Powerlifting and other "High Risk" Sports  
14 to 18, 20 to 23 and 32 to 35 of the Second Report.
- H: Recommendations relating to Australia's International Role in Drugs in Sport  
4 of the Interim Report and 5, 47 and 50 to 53 of the Second Report.
- I: Miscellaneous Recommendations  
7 of the Interim Report and 36, 39 and 46 of the Second Report.

6. Several recommendations have implications on more than one of the above categories. In these cases they have been addressed under the category of greater importance for the individual recommendation.

A: **FORMATION AND OPERATION OF THE AUSTRALIAN SPORTS DRUG AGENCY AND RELATED MATTERS**

7. The Government considers this the most important area of the Committee's work and has moved quickly to implement relevant recommendations.

8. The Commonwealth Government has had a role in sports drug testing since 1985 when the Anti-Drugs Campaign of the Australian Sports Commission was established. As the Committee has noted, this role was largely confined to testing of AIS athletes and did not provide for sufficient independence. In 3.161 of the **Interim Report** the Committee concludes - "Moreover, the National Program on Drugs in Sport reports to the Australian Sports Commission which is also responsible for the operations of the AIS and includes members of the AOF".

9. In response to this concern the Government has taken interim action to ensure greater independence including:

- . renaming of the Campaign as the Australian Sports Drug Agency (ASDA);
- . relocation of ASDA away from the Bruce campus of the AIS; and
- . creation of an Advisory Group having broad representation, including one ASC Board member.

10. A Bill to establish ASDA as a Statutory Authority with a legally and financially independent basis will be introduced into the Parliament in the current Session. It will provide ASDA with many of the functions and powers outlined in **Interim 4(i)**.

11. In particular, in accord with **Interim 4** it will be able to:

- . conduct relevant research;
- . select sports people for drug testing;
- . collect samples;
- . despatch samples to an IOC accredited laboratory;
- . receive results; and
- . report results to the appropriate sporting federation and the ASC where Commonwealth funding is provided to the person concerned.

12. It is proposed not to give ASDA certain functions specified in **Interim 4**, namely:

- . developing sports drug policies;
- . liaising with law enforcement agencies, customs and health departments;
- . adjudicating on penalties imposed by sporting federations; and
- . conducting investigations.

13. This does not mean that the Government has failed to address these issues. Rather, it considers that these are more properly within the province of organisations other than ASDA. The Government believes drugs policy at Federal level is better handled by the Australian Sports Commission and liaison with other Federal, State and Territory authorities by the Department of the Arts, Sport, the Environment, Tourism and Territories. National Sporting Organisations also have a role to play in imposing penalties and giving athletes a fair hearing.

14. In taking this position the Government is conscious of the need to separate the testing process from the broader issue of the policy of drugs in sport. It was decided to provide ASDA with a relatively narrow and virtually non-discretionary role - namely the thorough and professional application of internationally approved drug sampling and testing procedures to detect drugs on the International Olympic Committee (IOC) list of banned substances and notification of positive test results.

15. The Government wants to be in a position where the registering by ASDA of an athletes name on the register of defaulting competitors means only that he or she has recorded a positive test. The issues of 'guilt' or 'innocence', inadvertent or deliberate use, length of sanction, Commonwealth view on the appropriateness of the sanction and so on are therefore issues for government and non-government authorities other than ASDA.

16. This does not mean that ASDA will isolate itself from these broader issues. It will have a Board which will draw upon key areas of expertise such as the medical, legal, sporting and health education communities. It will have an international role in enhancing testing processes, contributing to bilateral and multilateral Agreements, updating of the IOC list of banned substances and so on. It will have a significant education role. It will be involved, with the Australian Sports Commission, in discussion with national sporting bodies on uniform doping policies and sanctions.

17. The role of ASDA in other non-testing activities will be consistent with other recommendations in the Reports, specifically:

- Interim 1 (ii) adopting the International Olympic Committee's 'List of Doping Classes and Methods';
- Interim 3 conduct of surveys on the extent of drug usage, community attitudes to drug usage, and the attitudes and practices of those involved in drug supply;
- Second 5 ensuring that Australian drug testing practices observe the requirements of international testing arrangements to which Australia is a party;
- Second 6 ongoing program of sports drug education; and
- Second 19 a process of registration of addresses for notification of athletes to attend for testing is included in the regulations to the Bill.

18. The Government has not accepted **Second 48** that ASDA include in its Annual Report names of athletes tested and results recorded - on the basis that it would infringe on the Privacy Principles under the Privacy Act 1988. The legislation will provide that only those with a genuine need to know the results of positive tests will be informed - namely the athlete, his or her national sporting organisation and the Australian Sports Commission, in those cases where Government funding is involved.

19. With regard to **Interim 3**, a survey focusing on the knowledge and attitudes of certain groups about drugs in sport has commenced. These groups include athletes (elite and sub-elite), coaches, scientists, doctors and administrators. Preliminary results should be available towards the end of 1990.

20. A pilot survey about drugs in sport focusing on school age sports participants has been completed. A survey on patterns of drug use by Queensland schoolchildren has been completed by the Queensland University Medical School with ASDA assistance. A pilot community survey on 600 ACT residents has been completed. ASDA will continue with survey work, within its available resources.

21. The Australian Bureau of Statistics is preparing an options paper for ASDA concerning the collection of data on patterns of drug use in sport on a national level.

22. With regard to **Second 6**, ASDA has developed a four-part drug education program:

- . **consultancy and training** - to provide professional advice and training to assist schools and sporting organisations establishing drug education programs;
- . **information services** - a hot-line, newsletter and database to provide access to appropriate and accurate information about drug use in sport for any member of the community;
- . **resource development** - brochures and manuals to provide resources to complement other educational initiatives; and
- . **evaluation, research and policy** - surveys and other research to provide information for the development of the education policy and to assess the overall effectiveness of ASDA in achieving set objectives.

23. Further details on ASDA education activities are contained in Attachment 1.

24. The Government has also been concerned to protect the rights of athletes. While ASDA procedures are standardised and clear, the Government nevertheless has built into the ASDA Bill certain appeal rights to ensure athletes are protected. These are addressed in the section of this response titled "Recommendations Relating to Appeals Mechanisms and the Proposed Tribunal".

25. The Committee [Interim 4(i)] recommended that ASDA carry out a minimum of 2,000 tests a year. The Government accepts this recommendation and has provided funds in the 1990-91 Budget to enable this level to be achieved. Indeed, there has already been a significant escalation in publicly funded testing in response to the Committee's work. In 1988-89 the Anti-Drugs Campaign conducted just 505 tests. In 1989-90 this rose to 1,052 publicly funded tests, with an additional 183 being conducted by ASDA under contract to professional sporting organisations. As ASDA negotiates further contracts during 1990-91 it is likely that the overall level of ASDA tests will significantly exceed 2,000.

26. In accordance with **Interim 4(i) and 5**, ASDA has also negotiated charging policies with professional sports. These charges have generally been set to recover the cost of conducting the test. This issue has also been brought to the attention of State and Territory sports Ministers.

27. The Committee recommended [Interim 4(i)] a mixture of in-competition and out-of competition, random and targeted tests. The Government accepts this recommendation, but does not believe the proportions in each category should be as tightly specified as in the Committee's recommendation. This is a matter for the ASDA Board and ASDA management to decide in accordance with its legislation, resource availability and the prevailing circumstances (eg. the incidence of major international sporting events in Australia might vary the projection for in-competition tests). The Committee's recommended proportions, however, will serve as a guide to the ASDA Board.

28. In order to meet the expanded role, the Government has also provided ASDA with a total budget of \$2,143,000 in 1990/91 for activities which include the collection of samples, testing, education, research and administration.

29. In accordance with **Second 49**, the Government has, within ASDA's budget, provided the Australian Government Analytical Laboratories (AGAL) with sufficient funds for analysis of samples collected by ASDA to be undertaken in the 'public interest'. This means that the 2,000 tests to be conducted by ASDA will not be charged to the athlete or to his or her sporting body. They will be funded by the Commonwealth. The ASDA budget has been supplemented by \$1,097,000 in 1990-91 to provide for AGAL analysis in the 'public interest'.

30. The provision of these funds is further evidence of the seriousness with which the Government views this issue and relevant recommendations in the Committee's reports. ASDA will derive additional income from "fee for service" testing and private donations.

31. At the initiative of the Government, the AGAL received accreditation from the International Olympic Committee in April 1990. AGAL is one of only 17 laboratories world wide with such accreditation, and the only one in the Southern Hemisphere.

32. The funds to be provided to AGAL through ASDA in 1990-91 will ensure that this accreditation is maintained by permitting the purchase of sophisticated equipment, staff training and participation in relevant IOC activities. The AGAL will be equipped to handle 3,000 tests per year. Tests additional to the 2,000 'public interest' tests will largely be from professional sports contracted to ASDA for testing and will be on a "fee for service" basis. It is hoped that this market will be progressively enlarged to include neighbouring countries as they develop their own drug testing programs.

33. **Second 50 to 53** relate to research and international liaison activities of AGAL. The AGAL has been made aware of these recommendations and the Government's desire that, within its available resources, it be as active as possible in international developments in drug detection and that it place a high priority on being in a position to maintain its IOC accreditation, which is conducted annually.

34. In response to this request, the AGAL has provided the following information which is incorporated in the Government Response for information:

**Second 50:** AGAL only recently obtained full accreditation. However, good liaison exists with both the Los Angeles laboratory and European laboratories. New procedures are presented at the workshops held each year in Cologne. The workshop this year was attended by two AGAL analysts who reported that there has been little progress in the areas of peptide hormone analysis. It should be noted that the routine use of any immunoassay method for Human Growth Hormone (hGH) and Erythropoietin (EPO), a red blood cell hormone, will also require confirmatory techniques which to date have not been developed.

**Second 51:** At present no approved testing procedures exist for EPO and routine analysis cannot proceed. However, testing for hGH is possible with existing technology at AGAL using commercial immunoassay test kits. Until now the amount of hGH available from pharmaceutical companies has been so limited as to not pose a problem. Larger quantities will be available in the near future because of the recent cloning processes which allow large scale production. AGAL is investigating available immunoassay procedures but until IOC guidelines are provided no results will be provided to ASDA. At present there is no co-ordinated IOC project on these substances being undertaken by accredited laboratories.

**Second 52:** Professor Donike was provided with urine samples from athletes participating in the weightlifting events at the Commonwealth Games. He intends to analyse the steroid profiles under his laboratory conditions. No results have been made available to date. He will be in Australia in October 1990 and this work will be discussed at that time. The analysis of steroid profiles is an ongoing program but it must be kept in mind that as yet there are no clear guidelines available for the interpretation of this data. This whole concept still requires a considerable amount of research to be completed before retrospective assessment of an athlete's anabolic steroid use history can be formulated. AGAL will be liaising with the Cologne laboratory and other drug testing laboratories in order to be able to utilise the technique.

**Second 53:** ASDA has held discussions with Dr Don Catlin and Professor Manfred Donike (head of the Los Angeles and Cologne IOC laboratories respectively) concerning steroid profiling. A proportion of funds made available to AGAL from ASDA will be allocated to developing the technique of steroid profiling. AGAL is constantly collecting data on steroid profiles (and has been for the last two years). It is liaising with ASDA in order to obtain information, within the constraints of privacy principles, regarding previous sampling of athletes to monitor profile stability and possibly note changes in profiles suggesting steroid use history. At present it is not possible to unambiguously detect prior use but it may be possible to target suspected users for closer scrutiny. Since AGAL has only screened a small number of people up to now it will need to wait some years before the data base is sufficiently large for profiling to work in this way. AGAL is careful to preserve the anonymity of the athlete and only requires the sample number and not the athlete's name.

**B: RECOMMENDATIONS RELATING TO APPEALS MECHANISMS AND THE PROPOSED TRIBUNAL**

35. The concept of an independent Tribunal receives interesting treatment in the two Reports.

36. In **Interim 4(ii)** it is recommended that such a tribunal be established "to adjudicate on disputed drug tests and the penalties imposed by sporting federations on athletes testing positive for banned substances".

37. In **Second 4** the proposed role of the Tribunal is greatly extended. It would still be an appeals body. However, it is also proposed that it should "have authority to investigate all sports drug matters" and "have access to all evidence presented to the Senate Drugs in Sport Inquiry, both public and in camera".

38. In the body of the **Second 2.54** the Committee views this latter recommendation somewhat differently - "The Committee believes that the Tribunal should have powers approximating those of a Senate Committee to ensure that it can collect evidence, protect witnesses and inform the public".

39. In the course of hearing and assessing evidence the Committee clearly formed the view that an expanded Tribunal was necessary and should have investigatory as well as appeals functions. There is, of course, a conflict in one body having both an appeals and an investigatory role, and this was taken into consideration in forming the Government's position on this matter.

40. The Government has given very careful consideration to this complex issue recognising the rights of individuals (for example, natural justice principles of the right to a hearing and to privacy) along with the need to have a practical, effective drug testing program and most importantly, the underlying prime objective of discouraging the taking of drugs in sport.

41. The instances in which an investigation, hearing or appeal could possibly arise can be categorised as follows:

- (1) an athlete testing positive who considers there has been some irregularity in the testing process;
- (2) an athlete who considers he or she has a satisfactory explanation for failure to respond to a notification to provide a sample at a designated time/location;

- (3) an athlete testing positive who considers that the alleged offence was inadvertent arising from lack of knowledge of the contents of a prescribed drug, or medication but who has nevertheless been suspended by his or her sporting body; and
- (4) an athlete testing positive who considers that the alleged offence was "involuntary" as a result of an intentional "spiking" of food/beverage by a third party.

42. There may also need to be an investigation or hearing concerning a particular sport, rather than an athlete, in certain circumstances. For example, a sporting body may fail to apply a sanction to a member athlete who has tested positive to a drug test. If such a sanction is consistent with that sport's International Federation and/or standard sanctions agreed on for application within Australia by all national sports bodies and peak bodies (eg the Australian Sports Commission [ASC], the Australian Olympic Committee [AOC], the Australian Commonwealth Games Association [ACGA]), then an investigation may be warranted.

43. Finally, an investigation may be warranted in certain circumstances, where a sporting body which directly or indirectly has received sports drug information which is unrelated to a drug test and therefore in which a "positive" test has not been recorded. Such information could be of several kinds:

- an athlete, coach or official publicly advocating the use of prohibited drugs or stating he/she has used drugs or encouraged drug taking; or
- an athlete, coach or official providing advice, collaborated or not, that another athlete, coach, or official has used drugs or advocated their use.

44. The first two categories are within the functions of the Australian Sports Drug Agency (ASDA) and, in the Government's view, warrant an appeals mechanism to protect the rights of individuals. As a Government agency, decisions by ASDA to place an athlete's name on the Register of Defaulting Competitors are subject to administrative law mechanisms - the Commonwealth Ombudsman or the Federal Court under the Administrative Decisions (Judicial Review) Act 1977.

45. The Government weighed up the option of whether or not appeals to the Administrative Appeals Tribunal (AAT) should be specifically included by such a reference in the legislation. The Government was concerned not to give an automatic appeal right to a body which can take a considerable time to schedule and hear appeals because in many instances this could mean that an athlete who has tested positive and subsequently loses an appeal could continue to compete nationally and internationally until the appeal was resolved. The Government was concerned at the danger to Australia's international reputation that could occur by embodying in legislation a mechanism that allowed sport drug users to continue in competition against other nations' athletes.

46. The Government has decided to incorporate appeals to the AAT only in the case of those athletes who, having been requested to provide a sample for testing, fail to provide a sample and who believe they can provide a satisfactory explanation as to why they were unable to do so. It has decided not to include appeals to the AAT against alleged irregularities in testing procedures.

47. Given the tight testing procedures, it is unlikely that an irregularity will occur. In the event that there is an irregularity, the test would be invalidated and the need for an appeal negated.

48. By taking this decision, the Government is conscious that it has put the onus on ASDA to be absolutely scrupulous and efficient in its testing processes. The protocol to be adopted by ASDA is that endorsed in the International Olympic Committee Charter and is designed to protect the rights of the athlete. This protocol has been progressively refined in recent years to ensure that irregularities are avoided. The legislation provides that testing of samples must be undertaken by an International Olympic Committee (IOC) accredited laboratory. The legislation also provides that a competitor is not to be taken to return a positive test result in relation to a sample provided unless the taking, identification and attestation, transit and testing of the sample follow strict procedures that will be set out in the regulations.

49. Regulations to the proposed ASDA legislation will also require the athlete, at the time the request for a sample is made, to be provided with an information sheet explaining the sampling and testing procedures to be followed and the consequences of recording a positive test result. The athlete will be required to attest in writing that they have been provided with this information sheet prior to collection of the sample from them, and that the correct process have been followed.

50. The IOC procedures to be applied also provide for the athlete to be present, or represented at, any subsequent analysis of the sample if the initial analysis of the sample records the possibility of a positive test. Again, this splitting of the sample into an "A-sample" and a "B-sample" will be provided for in the regulations.

51. As a further safeguard the legislation will provide where an athlete who has tested "positive" the Agency will not enter the athlete's name on the Register of Defaulting Competitors until after it has checked that sampling and testing procedures have been carried out in accordance with the regulations. This review requirement is itself a part of the regulations. The decision ASDA will be required to make under these circumstances will be whether the sampling and testing procedures have been adhered to. If any irregularity has occurred in the procedures then the test will be declared void and no entry made on the Register. Because ASDA's decision would be based purely on an assessment of whether the correct procedures had been followed, it is not appropriate for appeal to the AAT, which only hears appeals concerning the merit of a particular decision. Any subsequent appeal on process could be made through the AD(JR) process.

52. In the case of an athlete who has failed to respond to a notification of a request to provide a sample after having been sent prior notification of the request, there is a 14 day period during which the athlete can make a submission to ASDA before his or her name is entered on the Register. In this case it is impossible to build "fail safe" procedures into the regulations. An athlete may fail to appear at a prearranged place and time to provide a sample for any one of a number of reasons, and any decision on the merit of the reason(s) given would be, to some degree, a discretionary judgement.

53. The Committee considered the case of a weightlifter, Mr Darren Walker, at length in its final report. It recommended in **Second 18** that the Commonwealth Games Association investigate the circumstances "with a view to disciplinary action". This conclusion of guilt is not necessarily borne out by the evidence and highlights the difficulty that ASDA would face in making a decision on entry or otherwise onto the Register at the conclusion of the 14 day submission period. For this reason, the Government has decided to include an appeal provision to the AAT for athletes who are to be entered on the Register for failure to attend a

test. In this context it should be noted that some 90 per cent of ASDA tests will be in competition or unannounced in-training tests. Only some 200 tests per year will be by way of prearranged tests. The Government is therefore of a view that the appeals process for this category will not provide an insurmountable practical problem. In addition, regulations to the ASDA Bill will provide for processes to ensure that an athlete has been officially contacted to appear for an advance notice test.

54. The issue of inadvertent usage is also a complex one. **Interim 2.39** recognises such use, especially relating to decongestants and pain killers purchased from chemists and supermarkets for simple, common medical conditions. It concludes that "given that inadvertent use does occur and can be used as a defence when positive test results are found, the Committee believes that the possibility of developing mechanisms to reduce the inadvertent use of banned substances should be explored".

55. While the Committee makes no recommendation on this matter, the Government considers it of significant importance to be thoroughly explored, in the context of the appeals/Tribunal issue. Along with alleged irregularities in testing it is the probable main defence that will be used by athletes who have tested positive.

56. The Government considers the issue should be addressed in three ways.

57. Firstly, through the ASDA education campaign, National Sporting Organisations should be informed of the common drugs which contain banned substances and they, in turn, should keep their member athletes informed. The onus is on the athlete to ensure that he or she is not inadvertently taking a banned substance. It would not be too difficult for athletes to check with their national sporting body before taking a medication that they consider may be suspect, or for that body to seek ASDA's advice if they were in doubt. ASDA has also established a phone "hotline" with relevant information for athletes, and has produced pamphlets listing common drugs and their content and relationship to the IOC banned drug list.

58. Secondly, the issue is being addressed through the IOC Medical Commission. In the case of several medications the prescribed proportion that constitutes an offence have been increased to take into account inadvertent use. The logic is that usage at a level to obtain such a reading could not realistically be expected to have occurred purely for medical reasons.

59. Thirdly, National Sporting Organisations and peak sporting bodies (eg. ASC, AOC, ACGA) will be urged to adopt common policies on sanctions that recognise a three tier structure:

- . 3 months for inadvertent use, associated with a cough suppressant, painkiller, decongestant or antihistamine
- . 2 years suspension for first offence
- . life ban for second offence.

60. It will be a matter for each individual sport to make a decision on the sanction to apply in each case. Each sport will be encouraged to develop procedures for hearing an athlete's case and for determining the sanction, if any, to apply. Each sport can also develop an internal appeals mechanism constituted by different persons to those making the original decision, to hear appeals from athletes who have been suspended or banned by their sport. Coupled with the above mechanisms this should minimise the incidence of genuine inadvertent use leading to a ban. The athlete, of course, would still have recourse to the courts under common law.

61. On the other hand, if a sport were perceived to be taking a lenient approach towards application of sanctions it would be within the rights of peak bodies to question that sports adherence to agreed sports drug policies. The Australian Sports Commission, for example, could ask for an explanation as to why Commonwealth funding of that sport should not be suspended. Similarly the AOC could question that sport's international body and its participation within the Olympic movement.

62. Once again the underlying reason for drug testing must be remembered - that is, to discourage performance enhancing drug usage. Inadvertent usage can be followed up by further education material being provided to the athletes involved and by further drug testing. Continued inadvertent usage would be extremely difficult to justify.

63. The above analysis does not extend to therapeutic usage of banned substances. Again this is a complex issue which is briefly addressed in the Committee's Reports. By not providing for genuine therapeutic usage some potential athletes with an ongoing, chronic condition may be denied the right to reach their potential. On the other hand, such usage may still give the athlete an unfair advantage. These issues will be addressed by ASDA at international forums and ASDA will adhere to the positions adopted by the IOC. Individual athletes, however, should bring any medical condition and prescribed treatment to the attention of their national sporting organisation.

64. The question of the "involuntary" use of banned substances is also a contentious one. ASDA is aware of the need to ensure the security of samples, and of drinks provided to athletes to assist them in providing a sample. Strict procedures have been put in place to prevent any instances of "spiking".

65. Should the athlete believe that the positive test result was due to a "spiking" of a drink in the days immediately preceding sample collection, it would be outside of ASDA's area of responsibility and a matter for the athlete's national sporting organisation to consider when considering the imposition of any sanction. The national sporting organisation would have to justify to the ASC, any decision not to impose a sanction because of "involuntary" usage of drugs otherwise the ASC, under its Doping Policy, may review Commonwealth assistance to the National Sporting Organisations.

66. The application of sanctions, including that for three months covered above, has been addressed by Australian sport through its peak bodies - the ASC, AOC, ACGA. They have met with Department of the Arts, Sport, the Environment, Tourism and Territories and ASDA officials to see if a set of consistent sanctions covering all Australian sporting groups could be agreed and universally applied. The issues covered in the preceding paragraphs have also been discussed with peak bodies. The Government recognises that not all issues can be satisfactorily resolved in the an attempt to accommodate every conceivable circumstance, and that consequently athletes' rights to an investigation and/or hearing need to be embodied in Government policy.

67. The right to an investigation or hearing is included in the ASC's Doping Policy of August 1990. In particular the policy notes that where the Commission believes the Policy may have been breached it may invite the person or organisation to a meeting to present any relevant material concerning the alleged breach and to put a case as to why the sanctions prescribed in the Policy should not be applied.

68. Peak sporting groups have used as a model, the sanctions regime recommended in the General Principles for Anti-Doping Policies of the General Association of International Sports Federations. Those sanctions are:

- . 3 months suspension under certain circumstances
- . 2 years suspension for first offence
- . life ban for second offence.

69. While there are still some differences between sports at the international level, the Government agrees with Australian peak sporting bodies that these sanctions are appropriate. DASETT together with ASDA will work through international agencies to endeavour to achieve uniformity in these sanctions internationally.

70. The practical effect of this policy is that Australian athletes will receive two years suspension for a first offence even if their sport's international federation has a lesser penalty. In the case of foreign athletes tested positive in Australia, the Government recognises the limitation that the ban could only be effectively applied to that athlete when he or she endeavoured to compete in Australia, although the Australian body would advise its International affiliate of the suspension applied.

71. Further, some international federations do not subscribe fully to the list of banned substances issued by the IOC or fully to the protocol and testing procedures laid down by the IOC. For example, some international federations do not require a "B-test" to confirm a positive "A-test" finding. Again the peak sporting bodies in Australia believe there should be consistency in application across all sports, on proscribed drugs and procedures. The Government accepts this position, and will again take up these issues in international forums.

72. The Government does not accept **Interim 4(ii)** that an independent tribunal should adjudicate on the penalties imposed by sporting federations on athletes testing positive for banned substances. National Sporting Organisations will assess individual cases but will not impose a suspension for a lesser period than that imposed by the sport's international body. Where there is any scope for discretion to waive a standard penalty, as outlined above, this can be practically and effectively dealt with.

73. Sports will be required to abide by the ASC Doping Policy, which incorporates the mandatory sanctions. A breach will automatically bring into question the continued Commonwealth funding of that sporting body. As the AOC and ACGA have agreed to adopt uniform policies, they could therefore move to have action taken against the sport concerned at the international level.

74. The final category of potential investigations is perhaps the most difficult of all. Advocating drug usage or alleging drug usage has no relationship to a positive drug test. It therefore does not fall within the tight procedures that have been developed for testing and for the application of sanctions resulting from positive tests.

75. In the fiercely competitive world of high performance sport, however, there is likely to be a growing recourse to allegations against fellow competitors, with or without substance. The question is whether formal mechanisms, if any, should be in place to deal with such allegations.

76. The Government does not support the recommendation of the Committee that a Tribunal, with powers approaching a Senate Committee, have authority to investigate all such matters. It is quite unclear as to what the objective of such a Tribunal would be.

77. **Second 4** suggests that the substance of all its investigations and findings upon completion of each inquiry be reported to the Minister for the Arts, Sport, the Environment, Tourism and Territories, and subsequently to the Parliament through the ASDA Annual Report. The Committee is silent on what action it expects the Minister or ASDA to take. It would be within ASDA's proposed powers and functions to target the athlete in question for subsequent testing but in the legislation, as proposed, it would have no power to carry out its own investigations or to propose sanctions when no positive test result has been recorded.

78. Similarly the Minister could inform the athlete's national sporting organisation of the Tribunal finding but the sporting organisation would have no power to sanction the athlete unless it had a drugs policy, to which its members subscribed, that stated that sanctions can be mandatory in the event of an unfavourable finding by the Tribunal. This would be an intolerable situation for athletes. They would have to agree to be subject to sanctions that could be imposed on the basis of a judgemental finding rather than an irrefutable positive drug test. Recourse to the courts could be expected in the majority of cases not only to clear the name of the athlete but to pursue damages for defamation.

79. The absence of a Tribunal mechanism will not stop athletes making accusations against fellow athletes. They will simply address these accusations to different bodies - ASDA, ASC, AOC, ACGA or the relevant national sporting organisation.

80. Action that peak sporting bodies or National Sporting Organisations choose to take on allegations reported directly to them is entirely a matter for them. They would have to weigh up any proposed action, against their own constitution, agreements that they have with the ASC, the peak sporting bodies and their international federations with respect to drugs, the reputation of their sport, and the possibility of legal action.

81. The Australian Sports Commission and ASDA are to hold a national seminar of National Executive Officers of all National Sporting Organisations and peak sporting bodies to address these issues.

82. A final factor influencing the Government's decision to reject the recommendations concerning a Tribunal is that of cost. **Interim 4** recommends a Tribunal of four persons. With Secretariat, office accommodation and other overheads this could be expected to add significant costs to the already considerable Commonwealth sports drug budget, particularly as other mechanisms (eg. administrative law) are in place and appeals can be greatly constrained through tight practices and procedures.

83. In summary, the Government supports the Committee's recommendation that there be mechanisms established to adjudicate on disputed drug tests and the penalties imposed by sporting federations on athletes testing positive for banned substances [**Interim 4(ii)**]. It does not, however, believe that an Independent Tribunal is necessary to fulfil this appeals role.

84. Mechanisms have been built into the proposed ASDA legislation and are available through administrative law, for appeals against ASDA processes. Following consultation with peak bodies representing Australian sport, the Government accepts that sports can individually take on the role of having internal appeals against sanctions imposed for positive drug tests.

85. The Government also endorses the ASC Doping Policy which provides for possible withdrawal of Commonwealth funding from any sporting organisation which does not comply with the prescribed sanctions.

86. Further, the Government does not accept the broader investigatory role envisaged for the proposed Tribunal in **Second 4**. Apart from the inherent difficulty of having the one body with appeal and investigatory powers, it considers that appropriate mechanisms can be established within each sport, complemented by the ASC's Doping Policy.

C: **RECOMMENDATIONS REQUIRING CONSIDERATION BY COMMONWEALTH, STATE AND TERRITORY SPORTS MINISTERS**

87. A meeting of the Sport and Recreation Ministers' Council, comprising the relevant Ministers from the Commonwealth, the States and Territories and with New Zealand present with observer status, was held on 17 August 1990.

88. In response to relevant recommendations of the Inquiry, the Commonwealth placed two items on the agenda:

- . Recommendations of the Senate Standing Committee on Environment, Recreation and the Arts Inquiry into Drugs in Sport (the Black Report)
- . Commonwealth Drug Testing Agency

89. The purpose of the first item was to:

- . advise members of action the Commonwealth is taking in response to the recommendations of the Drugs in Sport Inquiry
- . bring to the attention of members the recommendations of the Inquiry which need to be considered by the Sport and Recreation Minister's Council
- . seek the co-operation of members and their State Departments in concert with the Commonwealth in preparing the Commonwealth Government's formal response to the Inquiry recommendations.

90. Led by the Commonwealth Minister, the Council discussed seven recommendations of the Inquiry - **Interim 1 (i), (ii) and (iii); Interim 5 (iv); Interim 11; and Second Report numbers 10, 11, 37 and 45.**

91. Following lengthy discussion, the Council resolved to:

- . note the action taken by the Commonwealth to date in responding to the recommendations of both reports;
- . agree that a joint meeting of Commonwealth and State Ministers for health and sport not be held, but that recommendations on sports matters be considered by the Sport and Recreation Minister's Council [**Interim 1 (i)**];
- . endorse the IOC List of Doping Classes and Methods as the agreed definition of doping [**Interim 1 (ii)**];
- . agree to develop State doping policies consistent with that of the Australian Sports Commission and to provide details of their respective State doping policies to the Commonwealth [**Interim 1 (iii)**];

- . agree that their respective Government sports agencies adopt sanctions consistent with those set out in the ASC Doping Policy [Interim 5(iv)];
- . agree to provide details to the Commonwealth of the licensing and voluntary arrangements for gymnasiums and health centres which operate in their States and Territories [Interim 11];
- . agree that the Commonwealth prepare a paper on the current situation of licensing arrangements and voluntary or self-regulatory arrangements for gymnasiums and health centres for consideration by the next meeting of the Sport and Recreation Minister's Council [Second 37];
- . note recommendations 8 and 9 of the Second Report and Commonwealth action in response to those recommendations [Second 10];
- . note the action taken by the Commonwealth to encourage the adoption of consistent sanctions by "professional" sporting organisations [Second 11]; and
- . note the action taken in relation to the use of steroids by the pacing and coursing industries [Second 45].

92. The Council also noted, without dissent, that the Commonwealth did not intend to accept the Senate Committee's recommendations concerning an investigatory Tribunal.

93. In those instances where the Council noted the action taken by the Commonwealth, that action is summarised in the relevant sections of this Government Response.

94. While not specifically identified in the Interim or Second Report a further item was placed on the Council's agenda, the purpose of which was to:

- . bring members up to date on progress to establish the Australian Sports Drug Agency as an independent statutory authority
- . seek the co-operation of members in implementing complementary legislation once Commonwealth legislation is in place.

95. Again following consideration, the Council agreed to:

- . note the need for complementary legislation;
- . note the proposed timing for the introduction and commencement of Commonwealth legislation to establish the Australian Sports Drug Agency;

subject to advice of respective Attorney-General's agree to seek approval for the introduction of complementary legislation following commencement of the Commonwealth legislation;

agree to consult with the Commonwealth about provisions which should be incorporated into the State legislation; to assist this process, the Commonwealth will provide the States with as much information as possible to help with the framing of the legislation.

96. A special meeting of the Council has been scheduled for February 1991 to consider means of improved efficiency and effectiveness in Government sport and recreation policies and programs as part of "The New Partnership" in Commonwealth/State/Territory relations. Outstanding action on relevant recommendations of the Inquiry will be progressed in the intervening period and listed for discussion at that meeting.

97. In general, however, it can be concluded that there is broad agreement across the States and Territories with the key Inquiry recommendations of direct relevance to them. The Government considers that with follow-up work over the next twelve months it should be possible to reach a co-ordinated approach across Australia on use of IOC definitions, doping policies consistent with that of the Australian Sports Commission, consistent sanctions, and use of the Australian Sports Drug Agency as the national testing authority. Co-ordinated action with respect to gymnasiums and health centres is likely to take somewhat longer to achieve, due to the size and diversity of the industry and current regulatory regimes.

98. Relevant minutes of the Sport and Recreation Ministers' Council Meeting of 17 August 1990 are at Attachment 2.

D: **RECOMMENDATIONS REQUIRING CONSIDERATION BY COMMONWEALTH, STATE AND TERRITORY HEALTH MINISTERS, AND RELATED MATTERS**

99. As noted in the preceding section of this Response, the Government did not see the proposed meeting of Commonwealth, State and Territory Sport and Health Ministers [**Interim 1(i)**] as being practical. Accordingly those recommendations which are within the responsibilities of Health Ministers have been referred to the appropriate Ministerial Council, namely the Ministerial Council on Drugs Strategy (MCDS).

100. At its meeting in June 1990 this Council noted the relevant Inquiry recommendations and agreed to convene a Workshop in October 1990 to consider the supply and control of anabolic steroids for human or veterinary use, and associated matters.

101. With respect to this Workshop, the Department of Community Services and Health has offered the following advice:

The Workshop will specifically address matters raised in **Interim 6 and 10 and Second 27, 42, 43 and 44**. In keeping with **Interim 8**, action has already been taken to tighten controls over the importation of anabolic steroids by amending the Customs (Prohibited Imports) Regulations.

Given that the various States will be present at the Workshop, those recommendations for which jurisdictional health agencies (medical and pharmacy boards) have responsibility will be raised for consideration at the Workshop. Specifically this concerns **Second 26, 27, 30 and 31**.

**Second 38, 40 and 41** concern matters which specifically concern those law enforcement interests represented on MCDS and will be referred for comment and necessary action.

Of the remaining recommendations, **Interim 9 and Second 24, 25, 28, 29 and 30** concern disciplinary action and professional standards in relation to private professional bodies. The Workshop will be asked for its views as to whether it is appropriate for MCDS to comment on these matters.

102. The Implementation Unit in DASETT has sought information from the Australian Medical Association, with respect to **Interim 9 and Second 24 and 25**, and from the Pharmaceutical Society with respect to **Second 28, 29 and 30**.

103. The Commonwealth has already acted to tighten controls over imports of anabolic steroids and control over suppliers will be further improved following the coming into force of the new Therapeutic Goods Act.

104. Some States and Territories have acted or are planning to act to tighten controls over the availability of anabolic steroids by:

- . increasing the penalties on prescribers for unlawful supply
- . making unlawful possession an offence
- . deeming possession of more than a predetermined quantity an offence and
- . requiring prescription records to be retained for monitoring.

105. There is some diversity in the approach taken by the States so far in responses to this issue.

106. In the past an anomaly has occurred whereby veterinary products have been used in humans as enhancers of sporting performance. The Commonwealth in conjunction with the States and Territories has been moving to close this loophole by giving permission for imports of veterinary products only where it is satisfied that the products have been approved by the relevant State or Territory Stock Medicine Board.

107. In relation to **Second 45** - banning the use of anabolic steroids in racing animals in order to limit their legitimate demand - the Implementation Unit has written to relevant State and Territory authorities bringing the matter to their attention. Response to date generally indicate that a ban on the use of anabolic steroids for performance enhancement is in place and swabs are taken but that steroids have a part to play in the legitimate treatment of animals, especially in fracture repair.

108. The proposed workshop will be attended by State and Territory health experts in the scheduling of pharmaceuticals. Commonwealth involvement will maximise the possibility of uniform scheduling of anabolic steroids across jurisdictions.

**E: RECOMMENDATIONS DIRECTLY IMPINGING ON THE RESPONSIBILITIES OF THE AUSTRALIAN SPORTS COMMISSION**

109. Most of the Interim Report and some of the Second Report deal with the Australian Sports Commission and the Australian Institute of Sport. Various procedures and alleged activities of athletes, coaches and officials are brought into question.

110. The Government had no objection to the focus of the Committee's work being initially directed at the AIS. The Commission, and the AIS, are the pinnacle of Australian sport and must lead by example on this, and other issues. Moreover, the Committee's Terms of Reference specifically called for an investigation of the "role played by Commonwealth agencies".

111. Only one of the recommendations of the Interim Report [Interim 12] related directly to the ASC. In his response to this recommendation, as published in the Second Report, the Secretary of DASETT said:

"With regard to recommendation twelve, the Chairman of the Australian Sports Commission and the Deputy Chairman have interviewed several Commission personnel and athletes named in the Interim Report. The Minister has written to the Chairman of the Commission asking him to review the action taken. The ASC also intend to respond to the Committee following the tabling of the final report (letter to Committee Secretary, 2 January 1990)".

112. The Committee considered this response to be inadequate and went on to make eight recommendations in its Second Report, four (Second 2, 3, 12 and 13) relating to individual athletes or officials, namely Ms Jane Flemming, Mr Peter Bowman, Mr Lyn Jones and Mr Harry Wardle. The other four (Second 7, 14, 17 and 18) relate to proposed action by the ASC with regard to the Australian Weightlifting Federation, and Powerlifting and Second 7 which proposes that junior weight category sports modify weighing practices.

113. With respect to Second 7 there may be considerable practical difficulties in implementing this recommendation. It is noted however that a standard late weigh in requirement may be as effective as a double weigh in requirement. The Australian Sports Commission has been requested to approach relevant National Sporting Organisations in relation to this recommendation.

114. The Government has always held the view that the Commission was treating the conclusions and recommendations of the Committee most seriously. The Commission may not have communicated its activities with regard to the Committee's work as fully as the Committee obviously desired but the Government notes, as per the Secretary of DASETT's letter to the Committee of 2 January 1990, that the ASC intended to respond to the Committee following the tabling of the final report. The Commission has now responded fully to the Reports and that response is included in the Government response in its entirety below.

. . . . .

**THE ASC, THE AIS AND DRUGS IN SPORT****BACKGROUND**

115. The Australian Sports Commission (ASC) fully supported the investigation of the Senate Standing Committee on Environment, Recreation and the Arts Inquiry into Drugs in Sport. Awareness of the issue has greatly increased among the public and persons in sport since the Senate referred the matter to its Committee in May 1988. This has resulted in increased support for strong action against the use of drugs in sport.

116. The ASC and the Australian Institute of Sport (AIS), which it incorporated in May 1989, have long-standing records of opposition to the use of drugs to enhance performance in sport. Policies and programs were begun by both bodies well before drugs in sport was a widespread public concern. The AIS was the first sporting organisation in Australia to conduct drug tests on athletes. The ASC has provided leadership to sporting organisations to develop policies and testing procedures. Ensuring a drug free environment for Australian athletes has always been a high priority for both organisations.

117. From its beginnings the AIS took positive action to keep the Institute clear of drugs. The AIS commenced operations in January 1981 and on 14 May 1981 the AIS Board endorsed a policy that drugs which aid the performance of athletes were not acceptable. Since January 1982 all athletes on scholarships have been required to sign a code of ethics agreeing not to take or use drugs or stimulants. Today, all athletes and coaches, whether on scholarship, on contract or receiving financial or other assistance from the ASC, recognise and sign an agreement to adhere to the ASC Doping Policy.

118. Random drug testing of AIS athletes was introduced in June 1986. In the 1986/87 financial year 39 AIS resident athletes were tested. The program was expanded in 1987 and 100 AIS athletes were tested in the 1987/88 financial year. Since 1987 the program has been greatly expanded, first to include athletes receiving grants under the Sports Talent Encouragement Plan (STEP), then to all athletes participating in the National Sports Program. Now, all government-funded athletes and users of government-funded facilities are subject to random testing.

119. In addition to a much greater number of athletes eligible for testing, the number of tests conducted has also increased dramatically. In 1988/89 505 tests were conducted, including tests on the Australian Team to the 1988 Seoul Olympics. In the 1989/90 financial year 1,235 samples were tested in 65 sports.

120. While originally the AIS testing program was small and "in-house", the amalgamation with the ASC in 1989 and the extension of random drug testing to all athletes receiving government assistance required a larger program. The National Program on Drugs in Sport, a program of the ASC which commenced a drug testing program for STEP grant recipients in August 1987, was contracted to do all the selection and testing of AIS athletes from April 1988. Its successor, the Australian Sports Drug Agency (ASDA) which was established by the Government as a separate agency shortly to be covered by its own legislation, conducts tests following procedures and regulations consistent with those of the International Olympic Committee (IOC).

121. The Government has provided substantial funding for ASDA and for the Australian Government Analytical Laboratory (AGAL), an internationally accredited testing laboratory which analyses samples taken by ASDA. In 1987/88 the ASC contributed \$255,000 towards the establishment of AGAL. This concluded the lengthy ASC involvement in investigating and selecting the appropriate laboratory.

#### **SENATE INQUIRY INTO DRUGS IN SPORT**

122. From the beginning of the Inquiry, the AIS co-operated fully with the Committee. It first provided a comprehensive report and then gave the Committee access to all other documents it sought. The ASC closely followed the progress of the Inquiry by attending public sessions and examining the public record of proceedings.

123. The Inquiry examined, in great detail, the administration of the AIS. The Committee did not publish any evidence to substantiate allegations that the AIS testing program or financial administration was misused. The Committee found some evidence of a failure to adhere to laid down procedures in respect of drug testing prior to December 1987. The Commission notes that these incidents occurred at a time when the AIS did not have adequate staff resources to concentrate on drugs in sport and that proposals for increased resources for this area were refused by the Government.

124. The ASC also notes that procedures at the AIS were tightened prior to the establishment of the Senate Inquiry. In April 1988 the National Program on Drugs in Sport became involved in the selection of athletes and administration of the testing program.

125. Nevertheless, as legitimate criticisms were raised by the Committee which were relevant to current policy and procedures, those procedures were reviewed and tightened.

126. For example, some of the criticisms of AIS medical procedures and documentation were relevant to a time when facilities were being built, staff resources were limited and

procedures were being established. Staff were diligent in their duties within the physical constraints that these difficulties imposed. Policies on purchasing medical supplies and prescriptions and on giving pharmaceutical preparations have been developed and strengthened since that time.

127. Another area which the Inquiry highlighted was the conflict between the principle of medical confidentiality which is standard in medical practice, and the requirement for information by AIS/ASC administrators responsible for carrying out the Doping Policy. The medical confidentiality constraints with respect to performance enhancing drugs were consequently removed from the ASC Doping Policy.

#### RESPONSE TO INTERIM REPORT

128. When the Interim report of the Drugs in Sport Inquiry was released on 14 June 1989, the general administrative matters raised in the report had already been dealt with. The Interim Report did not find any evidence of current usage of drugs by AIS athletes or coaches. Its allegations of drug use concerned events that had occurred in the past and which were for the most part related to athletes or coaches who were no longer at the AIS. The Interim Report admits that the Committee's investigation of allegations that AIS coaches purchased drugs using Institute funds provided no definite proof that this occurred (p.413, 9.106).

129. The Chairman of the ASC Board responded to the Minister only after the Board had thoroughly investigated the matters raised in the Interim Report. The investigation was based on the public transcript since the Commission does not have access to in-camera evidence. Below are the special reports and interviews conducted by, or at the request of, the Board during the Inquiry and after the Committee's Interim Report was released:

- . Price Waterhouse undertook a special audit review of weightlifting and track and field expenditure and overseas travel. The review identified only four purchases of medical supplies in the years 1982 to 1984 which were approved for payment without authorisation being given by a doctor.
- . The Australian Audit Office (AAO) subsequently investigated financial transactions involving medical supplies and expenditure in the weightlifting program. The AAO found that of the four transactions referred to in the internal (Price Waterhouse) report, one had been referred to a medical doctor and another was for items such as cotton wool which the AAO considered did not necessarily warrant countersigning by a doctor. In its report to Parliament (No. 20 1989/90) the AAO acknowledged that there were administrative control

deficiencies which should not have occurred but that there were extenuating circumstances, specifically, limited staffing and the fact that systems were being developed in 1982.

The Chairman and Deputy Chairman of the ASC undertook an extensive investigation into all the allegations against ASC staff and athletes named in the report who were at that time still employed by the ASC. Interviews took place with each and the specific allegations in the Interim Report were put to them.

The full Board of the Commission met on 13 July 1989 without ASC officers present. It considered a written report from the Chairman and Deputy Chairman and after lengthy discussion concluded that there was no evidence sufficient to warrant disciplinary action in respect of the people investigated, except in the case of the alleged urine substitution incident, in respect of which the ASC Board undertook specific disciplinary action:

- Ms Jane Flemming was admonished in person and in writing for her participation in the alleged urine substitution incident in 1986.
- The Commission wrote to Athletics Australia to seek an assurance that the incident was investigated and appropriate action taken in respect of Mr Maurie Plant. The Commission has received assurance that Mr Plant will not be selected as a future team manager.

130. Other actions were taken by the ASC to reinforce procedures and policy already in place. For example:

- . The drug testing program has been expanded and since April 1988 has been administered independently.
- . The Executive Director now has the power directly to order blood tests on AIS athletes. These tests are more specific and complete than those done by ASDA on urine samples.
- . An education program for all AIS athletes, coaches and support staff has been expanded with the assistance of ASDA. Lectures on drugs in sport have become part of the AIS athletes' orientation program and ASDA is currently working with AIS coaches to develop in-depth education programs for each sport.
- . Procedures for the purchase and prescription of medical supplies at the AIS have been strengthened.

The ASC policy is to require all National Sporting Organisations receiving government assistance to abide by a doping policy consistent with the Commission's.

ASDA has been established as an independent body and collects all samples for sports drugs testing by AGAL for athletes receiving government assistance.

## THE SECOND REPORT: GENERAL RESPONSE

131. The Second Report of the Drugs in Sport Inquiry was tabled in Parliament on 24 May 1990. The ASC Board met on 21 June 1990 when the report was considered in detail.

132. One of the important results of the Inquiry is a recognition that all National Sporting Organisations and umbrella organisations need to establish consistent doping policies and penalties. The ASC is working closely with these bodies and has met with representatives of the Australian Commonwealth Games Association (ACGA), Australian Olympic Committee (AOC) and ASDA. As a result a model doping policy for sporting organisations has been developed and will be the basis for consistent policies among all organisations receiving government funding.

133. The ASC has endorsed a policy to require all National Sporting Organisations to have doping policies consistent with the ASC policy and the policies of their international associations as a condition of receiving Government funding. This policy will commence in the 1990/91 financial year.

134. The ASC is particularly concerned that the rights of the athletes undertaking drug testing are protected and that all sporting organisations have regard to due process in applying sanctions to athletes returning a positive test. Model procedures for sporting organisations to follow, particularly in respect of procedures for the conduct of hearings, are being developed by the ASC in consultation with the ACGA, AOC and ASDA.

135. The ASC is also concerned that appropriate doping policies and penalties are operating in professional sports, as well as in amateur sport [Second 9(ii)]. However, because the ASC does not directly fund professional sport, confining funding only to junior levels, it has only limited influence over drug testing regimes for professional organisations. It nevertheless takes the view that those professional organisations of sports to which it has provided funding must have appropriate doping policies in place. Meetings are being planned in the near future with professional organisations to discuss the issue of drugs in professional sport.

136. The Second Report contains a number of recommendations which are specifically relevant to the policies and programs of the ASC.

137. **Second 20** is that the Australian Drug Free Powerlifting Federation Inc (ADFPPF) be recognised as the national sporting organisation for official and public funding. The ASC supports all efforts to foster a drug free environment for this sport. The ADFPPF and the Australian Powerlifting Federation (APF) applied for funding for the 1990/91 financial year and were assessed against the guidelines applying to the sports development program. A careful review was conducted by the ASC both in relation to matters raised in the Drugs in Sport reports and the criteria for funding sports under the Sports Development Program. The review concluded that both organisations met most of the criteria but the Commission decided to fund the APF on the basis that it's membership was more representative of the sport nationally and that it is affiliated with the International Powerlifting Federation which has over 50 member nations and is affiliated with the General Assembly of International Sporting Federations and the International World Games, and that it has indicated it will adhere to the ASC Doping Policy. The ASC will carefully monitor its compliance with the Doping Policy.

138. However, following further representations the Minister for the Arts, Sport, the Environment, Tourism and Territories has requested that the ASC review its decision to fund the APF. The ASC has agreed to undertake this review and will advise the Minister accordingly.

139. **Second 32** concerns the high risk of drug abuse in body-building. Body-building organisations do not satisfy eligibility criteria for funding under the sports development program at this time. The ASC is aware of the potential for abuse in this sport and notes the concern of the Committee.

140. The ASC also notes **Second 14** concerning the Australian Weightlifting Federation (AWF). A subcommittee of the ASC Board has completed a review of funding for the AWF particularly as it applies to the ASC Doping Policy. The subcommittee reported to the ASC Board on 27 September that it was satisfied with the undertakings made by AWF to address doping in the sport. The Board subsequently approved funding to the AWF under the sports development program. A further review of weightlifting is being conducted to determine if the sport will be re-admitted as an AIS residential program. The findings of the subcommittee's review will be considered along with other important factors like performance standards in the sport and the attitude of the International Olympic Committee to weightlifting. The findings of this review will be an important factor in the ASC Board's consideration whether to readmit weightlifting to the AIS as a residential sport. Other factors, however, will be taken into account, in particular performance standards in the sport and the attitude of the International Olympic Committee to weightlifting.

141. The Interim Report recommended a Tribunal with limited powers to advise on disputed drug tests, and the Commission supported this objective. In the Second Report the Committee recommended a Tribunal with more general powers. The Commission believes that the establishment of ASDA, the

development of doping policies and hearing procedures by National Sporting Organisations coupled with the conditions placed on funding by the Commission, will adequately meet the objective in that proposal and will have regard to the protection of the rights of individuals.

142. The ASC totally rejects the charge by the Committee in the Second Report that the ASC Board's response to the matters raised in the Interim Report was inadequate. The lengthy and comprehensive process in responding to the Interim Report is detailed above. The ASC considers its actions appropriate to the nature of the public evidence in the Interim and Second Reports.

143. While the statements and conclusions in the Committee's reports are protected under Parliamentary Privilege, the ASC has no such protection. The ASC must have regard to due process within a legal context of statutory and common law obligations. The ASC has examined public evidence referred to in the reports and considers that action taken by the Commission is appropriate. It has undertaken to reopen investigations should the Committee be able to provide it with evidence not previously available which might justify other action.

144. The Commission notes that many of the allegations made to the Committee were not substantiated. In some cases public aspersions were cast on individuals without those individuals being in a position to defend themselves. The Committee itself acknowledged that "old feuds and grievances" were reflected in some of the evidence it heard (P.xxi Interim Report).

#### **SECOND REPORT: INDIVIDUAL CASES**

145. The ASC is deeply concerned that under Parliamentary privilege people can be named and allegations made about them on the basis of rumour without any prima facie evidence.

146. The ASC Board considers it unjust for the Second Report to have made findings concerning Mr Harry Wardle which were different from those in the Interim Report without identifying the additional evidence relied on for these findings. The Interim Report acknowledges that there were "no direct allegations" (P. 313 6.235) against Mr Wardle but goes on to implicate him because of his association with Mr Lyn Jones. The Interim Report states that the Committee "believes" that Mr Jones' activities "could not have been carried out without the full knowledge and co-operation of Mr Harry Wardle" (P. 326 6.276). It is a considerable leap for the Second Report to state that "the Interim Report found that Messrs Jones and Wardle had supplied and administered anabolic steroids and other banned substances to athletes at the AIS..." (P. 148 6.41) without including additional evidence to substantiate this conclusion which was not made in the Interim Report.

147. The Chairman and Deputy Chairman of the ASC Board investigated the claims against Mr Wardle in the Interim

Report. On the evidence available to it in the public record of the Interim and Second Reports and from their discussions with Mr Wardle, the ASC Board believes there is no justification to take any direct disciplinary action against Mr Wardle.

148. The Commission considers that the Committee's criticism of its attitude to Mr Peter Bowman is similarly unfounded. The Commission thoroughly investigated the incidents mentioned in the Interim Report, including an audit of the records. The Committee's Second Report suggests that there was "some degree of acquiescence or co-operation" (P. 29 2.30) between Mr Bowman and Messrs Jones and Wardle. This conclusion was not given in the Interim Report and is not supported by additional evidence published in the Second Report.

149. After considering all the facts available to it, including audit reports, interviews and evidence in the Interim and Second Reports of the Committee, the ASC Board did not find that they warranted specific disciplinary action against Mr Bowman.

150. The ASC also questions the purpose of the Committee's recommendation (**Second 2**) that the ASC reconsider its response to Ms Jane Flemming's part in the alleged urine substitution incident in 1986. The ASC Board is of the opinion that the intense public scrutiny of her actions and the admonishing she received from the ASC Board in person and by letter was discipline appropriate to her role in the incident. The ASC does not consider that the information from Mr Rice in the Second Report (P. 24 2.20) substantially changes the facts of the incident. The ASC notes that in fact there was no urine substitution. It also notes that the alleged incident did not breach any IOC (International Olympic Committee) or IAAF (International Amateur Athletics Federation) regulation in force at the time. The Commission has expressed that it is appalled at the attitude of the Committee towards Ms Flemming.

151. The ASC agrees, however, that the incident reflects poorly on the team officials and has sought and received assurance from Athletics Australia that young Australian athletes will not be put in a similar position in future.

152. The ASC's investigations of the allegations involving Ms Flemming, Mr Wardle and Mr Bowman, have been thorough, comprehensive and fair. The ASC Board is willing to review its conclusions if the Committee provides new and substantive material for scrutiny by the ASC. This position has been made known to the Secretary of the Committee. The Secretary responded to the Chairman's letter of 27 June 1990 on 3 August and provided transcripts of the public evidence which the ASC already has. The Commission is awaiting a response to its request for access to 'in-camera' evidence.

153. With respect to the Committee's recommendations concerning Mr Lyn Jones, the ASC clearly cannot take disciplinary action against a former employee. However, the matters raised in the report concerning activities of the

Australian Weightlifting Federation (AWF), as they related to ASC doping policies and funding guidelines, will be investigated thoroughly by the subcommittee of the ASC Board as detailed above.

#### CONCLUDING REMARKS

154. Since the Senate Inquiry into Drugs in Sport commenced in May 1988, awareness of the issue has markedly increased among the public, sportsmen and women, and sports administrators. The Inquiry is partly responsible for this increase awareness and the ASC supports the majority of its findings.

155. Before and throughout the Inquiry the ASC fine-tuned policies and tightened procedures where they were warranted. It was a process which had started before the Inquiry and which will continue as circumstances and requirements change.

156. The following actions are samples of the activities undertaken by the AIS and ASC. From June to December 1987 the AIS random drug testing program was increased threefold. In December 1987 the AIS Doping Policy was revised to impose a life ban on any athlete, coach or administrator found positive or implicated in a positive test. This policy has been continually revised and updated in keeping with IOC procedures. Administrative procedures for the AIS Sports Medicine Centre were revised in January 1987 to tighten controls on the purchase, prescription and storage of supplies. In April 1988 the drug testing program was expanded and brought under the administration of the National Program on Drugs in Sport (now ASDA). Contracts with coaches and scholarship agreements with athletes have all been revised to require them to sign a statement that they understand and abide by the ASC doping policy. A comprehensive drug education program has also been developed and implemented for athletes and coaches.

157. These are just some of the measures taken by the ASC to institute policies and programs to ensure a drug free sporting environment. The ASC has been a catalyst for other major changes.

158. ASDA is being established as a separate statutory body responsible for all sports drug testing in Australia. The Commission gives ASDA its full support but realises that the Government must support the Australian Government Analytical Laboratory, which analyses samples for ASDA, so that it retains its international accreditation.

159. National Sporting Organisations are taking responsibility for developing doping policies and penalties in accordance with directions laid down by the ASC which now has the resources to help them do this. Sporting bodies are aware that they risk losing financial assistance from the ASC if they are negligent in establishing and enforcing doping policies which must be consistent with that of the ASC.

160. Athletes are aware of the high stakes and the increasing chance of being caught if they take banned substances. They risk losing financial and other assistance from the ASC, their sporting body and from the Australian Olympic Committee or Australian Commonwealth Games Association, in addition to mandatory suspension or life ban from participation in sporting competition.

161. The policies and programs initiated by the AIS and ASC are having a positive effect on sport. The ASC will continue developing programs and policies aimed at ensuring that all Australian athletes compete in a drug free environment.

. . . . .

162. The Government wishes to make some observations and conclusions with respect to the ASC's response.

163. Firstly, the Government notes, and accepts, that the incidence of failure to adhere to laid down procedures on drug testing occurred prior to December 1987 and that by the time of the Interim Report (June 1989) the general administrative matters raised in the report had already been dealt with.

164. Secondly, the Government notes the Committee's conclusion that the Interim Report did not find any evidence of current usage of drugs by AIS athletes or coaches. Its allegations for the most part related to athletes or coaches who are no longer at the AIS. This is supported by independent testing carried out by ASDA. Since 1989, ASDA has undertaken over 500 tests with no "positives" being recorded.

165. Thirdly, the Government notes that interviews were conducted with staff and athletes named in the Interim Report with specific allegations in the Report being put to individuals, and that the full Board concluded there was no evidence sufficient to warrant disciplinary action in respect to the people investigated, except in the case of the alleged urine substitution incident.

166. Fourthly, with respect to the alleged urine substitution incident that Government fully shares the ASC's views that the intense public scrutiny of Ms Flemming's actions coupled with the admonishing she received from the Board was appropriate discipline, particularly as the alleged incident did not breach any IOC regulations in force at the time.

167. The Government is particularly concerned at the current difficulty in attracting and retaining adolescent girls in sport. It is mindful of the "role model" impact of champion athletes such as Ms Flemming, who has been an ambassador for Australian sport, and who is prepared to put something "back into sport" through chairing the Government's Sportswomen of Excellence committee.

168. Finally, the Government supports the leadership role that the Commission is taking with National Sporting Organisations in ensuring that sports have consistent drugs in sport

policies, based on the IOC Charter. The negotiations initiated by the ASC on matters such as investigations and appeals within sports has provided the Government with the reassurance that athletes' rights can and will be protected without the additional expense of the Tribunal recommended in the Committee's Reports. A copy of the revised ASC Doping Policy is at Attachment 3.

169. With respect to the particular recommendations of the Inquiry and the Commission's response above, the Government makes the following conclusions:

**Interim 12:** The Government accepts that the ASC has investigated and rectified the approval of medical supply purchases without medical officer authorisation. It notes that the Australian Audit Office in its report to Parliament (No. 20 1989/90) acknowledged that there were administrative control deficiencies which should not have occurred but that there were extenuating circumstances, specifically, limited staffing and the fact that systems were being developed in 1982.

**Second 2 & 3:** The Government accepts that no further action should be taken on Ms Flemming's case or Mr Bowman's case.

**Second 7:** The ASC has been requested to approach relevant National Sporting Organisations in relation to this recommendation.

**Second 12:** The Government accepts that the ASC cannot take disciplinary action against Mr Jones, a former employee.

**Second 13:** The Government accepts that no further action should be taken on Mr Wardle's case.

**Second 14,  
17 and 18:** The Government accepts the ASC's decision of funding the Australian Weightlifting Federation, but has sought a review of funding of the Australian Powerlifting Federation; and notes that both sports are obliged to have an effective doping policy and that their compliance will be monitored by the ASC.

170. There can be no doubt that, despite criticisms levelled at the Inquiry by the ASC, the impact of the investigation has been most positive on the ASC and the AIS. Procedures have been tightened and relevant policies reviewed and updated. There has been an iterative process between the ASC and sporting organisations to ensure that common doping policies are adopted across Australia, consistent with the IOC Charter.

171. The Government greatly appreciates the Inquiry has made a significant contribution to ensuring that the ASC provides national leadership in ensuring drug-free sport in Australia.

**F: RECOMMENDATIONS RELATING TO PROFESSIONAL SPORTS**

172. Chapter 5 of the Second Report deals at length with the issue of professional sport. This issue is most topical, given the recent tests that ASDA has conducted on players competing in the NSW Rugby League competition. After a lengthy consideration of that sport the Committee makes the following summary [5.70]:

"In general the Committee has been impressed with the past practice of the NSWRL in responding to the performance drug threat to Rugby League. The Committee also considers that, with one reservation, the NSWRL drug code provides a model for other professional sports. The reservation is that the code should specify the penalty regime that is to apply."

173. The Government notes the views of the Committee on this issue. The NSWRL has had a drug testing policy in place since 1986. It's current policy provides for testing in the off-season and in training as well as at games. It also extends to testing of players under 18 year old competing in the Jersey Flegg competition. Drugs tested for are those on the IOC list of banned drugs. The NSWRL has contracted ASDA to undertake 200 tests per year, on a fee for service basis. The official NSWRL Registration Form that all players must sign indicates that if selected they would agree to undergo the prescribed drug tests as laid down by the league.

174. The Government, however, shares the Committee's concern that the NSWRL drug policy document has not specified the penalties to be imposed in the event of positive drug tests. The Government is aware that the NSWRL is reviewing its policy on sanctions and is discussing the issues with the ASC.

175. A case can be made for the prescribed sanctions to apply. That is, 3 months for specified instances; 2 years suspension for first offence and a life ban for second offence. These penalties, however, were primarily developed for sports whose high level competition is spasmodic. Most professional competitions in sports have a lengthy and intensive competitive "season" followed by an "off-season". A case could therefore be made for penalties to apply to a specified number of competition matches, the system already in place in several professional sports for sanctions relating to dangerous play. Such a system covers the problem of a player serving out a three-month suspension during the "off-season", effectively at no penalty to the athlete.

176. A case could also be made for all sports, whether professional or amateur, Olympic or non-Olympic, to adhere to the IOC Charter, including its list of proscribed drugs. The related issue of compulsory drug testing in the workplace will be considered at a conference to be convened by the Minister for Aged, Family and Health Services in early 1991 and will be the subject of additional consultation with industry and union groups to develop a coherent government policy.

177. The IOC's list of prohibited drugs and restricted drugs have, quite reasonably, been drawn up with the Olympic movement in mind. The universal application to all sports, under all circumstances, was probably never the intention of the IOC. As the IOC Anti-Doping Charter is gaining this broader application, the Government intends to raise the fundamental issues in international anti-doping forums, including the 3rd World Anti-Doping Conference in 1991.

178. Consistent with that view, the Government also considers that professional sports should subscribe to the same hearings processes that are outlined under the section of this response titled Recommendations Relating to Appeals Mechanisms and the Proposed Tribunal.

179. The issue of prescribed sanctions is also relevant to the ASC Doping Policy which provides inter alia, that sports will adhere to the relevant penalties. This is of particular concern in relation to sports which may have their ASC funding terminated for failure to comply with the policy when it is the professional end of the sport where the policy may have been breached while the junior/developmental end of the sport is that receiving ASC funding. In the case of rugby league, for example, the Australian Rugby League receives ASC funding under the Sports Development Program while the current drug testing arrangement is with the NSWRL. The ASC Doping Policy provides that sports can approach the Commission to consider individual circumstances in setting penalties regimes.

180. The withdrawal of funding from the ARL which is directed to junior development would have a negligible impact on the multi-million dollar NSWRL. It is a sanction without weight. Moreover, it could have the negative effect of the NSWRL lessening its own considerable involvement in the development of the sport. The point of this hypothetical discussion is that threats of action will be of little effect on professional sports. They are as interested as any other sport in seeing the elimination of drugs, and have taken a positive position in the anti-drugs campaign. Co-operation needs to be fostered between the ASC, ASDA and the sports involved, and the complex issues resolved through consultation.

181. There are, of course, Olympic sports with a significant professional element; for example basketball, soccer, cycling, tennis. In the case of basketball it would be quite possible for the one player to be subject to testing by ASDA under a "fee for service" contract with the National Basketball League and also to be subject to a "public interest" test by ASDA sanctioned by the Australian Basketball Association or the ASC because the player is a national representative on the Olympic team. The likely complications arising from the issues outlined above are obvious and again will be the subject of discussion with the relevant sports.

182. The Government further considers that all sports should fully subscribe to the processes and regulations laid down in the ASDA legislation. One practical effect of this would be that professional sports should not be able to enter into contractual arrangements with ASDA on terms other than which apply in the ASDA legislation. For example, in the case of a positive test, ASDA should notify the athlete, the athlete's national sporting body, and, where Commonwealth financial assistance is involved, the ASC. A sport should not be able to contract with ASDA on the basis that the ASC is not to be informed of positive tests.

183. The net effect of a sport not following a policy of sanctions for performance enhancing drugs and not permitting the release of names of positive tests to the ASC where Government funding is involved is that sport alone will be solely in control of the penalty process. No one need know whether uniform sanctions are being applied, nor indeed if any sanctions are being applied. Apart from the process being open to internal corruption and litigation it would not be in the interest of the reputation of the sport concerned.

184. The Committee also reported at some length on other professional sports - soccer, Australian football and basketball. There are some differences from sport to sport; for example the AFL Drug Code provides for suspension for 10 matches for the first offence; 10 to 22 for a second; and 22 to life for a third. In general, however, the Committee's findings and the Government's response applies to all professional sports and the above conclusions relating to rugby league apply equally to other sports.

185. While the Government therefore supports the recommendations of the Committee in respect to professional sports, [Second 8, 9, 10 and 11] it recognises that the issues are particularly complex and need to be resolved through consultation with the sports involved.

186. The issue of professional sports was also on the agenda for the Sport and Recreation Ministers' Council in August 1990 [Second 10 and 11]. This issue is taken up under the Section of this Response dealing with Recommendations Requiring Consideration by Commonwealth, State and Territory Sports Ministers.

**G: RECOMMENDATIONS RELATING TO WEIGHTLIFTING, POWERLIFTING AND OTHER "HIGH RISK" SPORTS**

187. Chapter 5 of the Interim Report deals at length with the weightlifting program at the AIS and particularly with staff and athletes exposure to performance enhancing drugs. While no specific recommendations arise from this consideration, there is a later recommendation [Interim 12] that the AIS investigate the approval of medical supply purchases without medical officer authorisation, contrary to AIS policy, with a view to disciplinary action.

188. Consideration of AIS issues is covered in the section of this Response titled, Recommendations Directly Impinging on the Responsibilities of the Australian Sports Commission.

189. Chapter 6 of the Interim Report, however, also provides a useful summary of why weightlifting should be seen as "high risk" - that is, as a "power sport in which participants could clearly gain an advantage from the use of anabolic steroids". It cites the Survey of Drug Use in Australian Sport published in December 1982 by the Australian Sports Medicine Federation.

190. The survey concluded that, so far as competitive sports are concerned, weightlifters are second only to powerlifters in the proportion of them taking anabolic steroids and that '50 per cent or more of international level powerlifters and weightlifters' could be using anabolic steroids.

191. Regardless of the accuracy of this conclusion, the Government is firmly of the view that to meet the objective of making Australian sport free of performance enhancing drugs special attention will need to be paid to high risk sports and, more importantly, the co-operation of these sports must be engendered.

192. The Committee devotes three chapters of its Second Report to weightlifting and powerlifting and most of an additional chapter to body building. It makes eighteen recommendations as a result of their investigations and conclusions.

193. **Second 12 and 13:** relate to staff of the Australian Sports Commission and are covered in the section of this response titled Recommendations Directly Impinging on the Responsibilities of the Australian Sports Commission.

194. **Second 14 to 17:** the Australian Olympic Committee and the Australian Commonwealth Games Association have been made aware of those recommendations that suggest action by these organisations.

195. With regard to **Second 15 and 16**, the International Weightlifting Federation has been made aware of the recommendations and has been provided with copies of the reports.

196. The General Secretary of the International Weightlifting Federation, Dr Tamas Ajan, has written to the Committee and to the Australian Sports Commission expressing the views of the International Weightlifting Federation Executive Board. They conclude in part:

"I wish to advise you of the general opinion of the Executive Board of the International Weightlifting Federation; ie. both the Interim and the Final Reports are lacking in facts and evidence, whereas they contain conclusions and statements based on suppositions when referring to various Australian weightlifting coaches, officials as well as representatives of other sports.

In view of this, the International Weightlifting Federation Executive Board will not conduct any kind of investigation in the Australian Weightlifting Federation."

197. In accordance with **Second 16** the correspondence has been brought to the attention of the Australian Olympic Committee and the Australian Commonwealth Games Association. In the case of the Australian Sports Commission, the Board of the Commission resolved at its July 1990 meeting to form a subcommittee to investigate the matters.

198. **Second 18 and 19:** relate to procedures in the case of failure to appear for a notified drug test by ASDA. In line with its general position on individual athletes raised in the Reports, the Government will take no further action regarding the athlete named in **Second 18**. The matter has been brought to the attention of the Australian Weightlifting Federation. The broader issue of related procedures [**Second 19**] are discussed in the section of this Response titled Recommendations Relating to Appeals Mechanisms and the Proposed Tribunal.

199. **Second 20 to 23:** deal with powerlifting, as well as part of **Second 4**. The Government shares the Committee's concern about the commitment of the sport to the drugs issue. The Government does not, however, share the Committee's view that this situation can be readily rectified by funding the new offshoot, the Australian Drug Free Powerlifting Federation and that its activities be monitored by the proposed Tribunal.

200. The Government sees no reason to treat powerlifting in any different manner to other sports. That is, only one organisation per sport will be eligible for funding under the Sports Development Program (SDP) and that organisation will, in virtually all cases, be the organisation affiliated with the international body of that sport. In order to receive funding, that body will have to agree to abide by the ASC's Doping Policy. If having agreed to abide by the policy, it is found to have breached that policy then the ASC may withdraw financial or other assistance from the organisation, as detailed in the ASC Doping Policy.

201. Of course, separate to the drugs issue, the Commission has a responsibility to ensure that sports are efficiently and effectively organised in order to meet their strategic objectives. Demarcation disputes within sports clearly jeopardise this efficiency and the Commission in the past has offered to assist sports in their reorganisation.

202. The Commission has met with APLF and the ADFPF in order to resolve the organisational issue on the basis that:

- . either or both organisations are welcome to lodge an application for SDP funding
- . only one can be supported and it is therefore in the sports interest that they amalgamate on mutually acceptable terms
- . to be eligible for SDP funding or any other ASC assistance, that organisation would need to comply with the ASC Doping Policy as well as other SDP criteria
- . the organisation would also be expected to satisfy the ASC with respect to the relevant recommendations in the Committee's Report.

Paragraph 137 contains an account of the outcome of the meeting with the APLF and the ADFPF.

203. ASDA is now undertaking tests for both organisations, independently. Both are fully co-operative.

204. **Second 32 to 37:** deal with body building. This is a difficult area for the States, let alone the Commonwealth, as body building is not a recognised sport, does not have a highly organised structure and does not receive ASC funding. An interface between Government's and body building organisations and clubs, and Government powers to enforce any sanctions, is therefore a practical difficulty. Despite this, significant action has been taken on the relevant recommendations:

**Second 32:** the Australian Sports Commission has noted that body building is a "high risk" activity and will acknowledge this if and when there is an application for financial assistance for any body building organisation. State and Territory Sports Ministers have been made aware of the recommendation.

**Second 33:** the National Physique Committee (the Australian affiliate of the International Federation of Body Builders - IFBB) has agreed to participate in ASDA education campaigns. As an initial step, there will be an ASDA introductory seminar prior to the 1990 National Body Builders Championships. There are other body building organisations in Australia not affiliated with the IFBB that do not have either a drug policy or testing program. These organisations representing segments of body building activity will be progressively contacted by ASDA.

**Second 34:** ASDA will be contracted by the National Physique Committee to undertake random drug tests at the 1990 National Body Building Championships.

**Second 35:** Refers to the proposed Tribunal and is therefore not applicable.

**Second 36:** Has been brought to the attention of the Australian Customs Service and the House of Representatives Standing Committee on Finance and Public Administration which is enquiring into the Australian Customs Service. This issue is covered in the section of this Response titled Miscellaneous Recommendations.

**Second 37:** Has been brought to the attention of State Sports Ministers through the Sport and Recreation Ministers' Council. This issue is covered in the section of this Response titled Recommendations Requiring Consideration by Commonwealth, State and Territory Sports Ministers.

H: RECOMMENDATIONS RELATING TO AUSTRALIA'S INTERNATIONAL  
ROLE IN DRUGS IN SPORT

205. In taking a relatively leading position in the international fight against drugs in sport, the Government is conscious that Australian athletes may consider themselves "disadvantaged" in competition, if other nations do not subscribe to tough drug testing procedures.

206. On this issue Interim 4(iii) recommended as follows:

"request the Australian Sports Drug Commission, and the Australian Olympic Federation, to adopt a strong international role in order to take steps to ensure that the Committee's views are presented to major international forums (eg. Second World Anti-Doping Conference in Moscow and the Dublin Inquiry) and to promote the worldwide acceptance of mandatory random and targeted drug testing regimes and the development of uniform policies. This is necessary in order to ensure that Australian athletes are not penalised because of Australia's strong stance on this issue".

207. In responding to this recommendation, the Secretary of DASETT said in his letter of 2 January 1990, as published in the Second Report:

"the Government has, through representations at the Second World Conference on Drugs in Sport in Moscow, USSR, adopted a strong international role. This will be followed up by Australian representation at conferences in Canberra (December 1989) and Auckland (February 1990) aimed at developing bilateral and multilateral agreements on drug testing and ensuring that Australian athletes are not disadvantaged by Australia's strong stance on the drugs issue. At this time it is fair to say that there is considerable international momentum towards anti-doping agreements and that Australia's leadership in this role has been widely recognised".

208. Australia was represented at the Second World Conference on Drugs in Sport in October 1989 by the Chief Executive of ASDA and Senator Black. While no arrangements were initiated at that Conference it was generally viewed that following the creation and funding of ASDA, Australia would be amongst the world leaders in the field.

209. Eleven nations met in Rome in November 1989 to settle on a Multilateral Agreement. It is not an onerous Agreement, but requires nations to work towards bilateral measures including mutual cross testing of athletes, sharing of results, consistency of sanctions, educational programs etc.

210. A meeting of officials of Australia, United Kingdom, Canada and New Zealand was held in Canberra on 8 December 1989 with a view to developing a multilateral drugs Agreement to cover the countries of the Commonwealth. At that meeting, chaired by DASETT, it became apparent that this strategy was premature:

- New Zealand considered its own drugs testing program to be in its infancy and preferred to pursue a bilateral arrangement with Australia
- Australia, New Zealand and the United Kingdom considered the Commonwealth initiative might be seen elsewhere in the Commonwealth as pre-emptive when some Commonwealth countries had not decided their individual attitudes to the sports drug issue.

211. A meeting of Commonwealth Sports Ministers (including Australia) was held in Auckland on 4 February 1990, on the completion of the Commonwealth Games.

212. There was a view amongst many emerging nations that compliance costs of conforming with the International Olympic Charter and a later Commonwealth Agreement might be prohibitive. The Chairman's statement, at the conclusion of the Conference, reflected the meeting's views as follows:

"High among these matters was the concern shared by all Ministers on the problems of drug abuse in sport. They recognised that the existing framework of international action is the International Olympic Committee's Charter Against Doping in Sport. The Ministers agreed that all Commonwealth countries should co-operate to promote the worldwide endorsement, implementation and, where necessary, strengthening of the Charter. They believed that such co-operation between Commonwealth countries would constitute a major contribution to the International Olympic Committee's efforts to rid sport in general of such dangerous and unworthy practices".

213. To further pursue the Government's international sports drug initiatives and to respond to the relevant recommendations, two areas of action remain outstanding:

- Bilateral Memorandum of Understanding with New Zealand
- Trilateral Memorandum of Understanding with Canada and the United Kingdom.

214. The Government's concern in both cases has been to ensure that ASDA and DASETT resources are not over-committed through these arrangements (particularly given ASDA's need to consolidate its organisation and increase to 2,000 tests/year) while expanding the network of international arrangements to ensure a truly international approach to the problem.

215. The Australian and New Zealand Sports Ministers discussed the terms of a "Memorandum of Understanding between the Government of Australia and the Government of New Zealand concerning the Reciprocal Development and Enforcement of Measures Against Doping in Sport" at the time of the Sport and Recreation Minister's Council meeting in August 1990. While the basis of the Memorandum has been agreed in-principle, it has been referred to the New Zealand Misuse of Drugs in Sport Task Force, which is not expected to report until 1991.

216. A draft Memorandum, covering Australia, Canada and the United Kingdom has been agreed at officer level. Working arrangements under the Memorandum are to be agreed at a meeting of the three participants in October 1990. A copy of the "Memorandum of Understanding between the Governments of Australia, Canada and the United Kingdom Concerning the Reciprocal Development and Enforcement of Measures Against Doping in Sport" is at Attachment 4.

217. Beyond these arrangements, further international initiatives are likely to be delayed until the Third World Conference on Drugs in Sport, late in 1991. The Chief Executive of ASDA has been invited to become a member of the twelve person International Working Group responsible for the International Doping Charter.

218. Turning to specific recommendations, the Government response is as follows:

**Interim 4(iii):**           the strong international role envisaged  
**and Second 47**           is being implemented as per the above  
strategy.

**Second 5:**               DASETT, in consultation with ASDA, will  
ensure that Australian drug testing  
practices observe the requirements of  
international drug testing arrangements.  
The ASC, in consultation with the AOC and  
ACGA, will monitor the implementation of  
drug policies by Australian sports and  
would expect sports to inform  
International Federations as appropriate.  
Under the circumstances, the Government  
sees that this recommendation can and  
will, be implemented without establishing  
a Tribunal to perform this tasks.

**Second 50 to 53:**       These recommendations will be implemented  
by AGAL and ASDA. Current action is  
outlined in the section of this response  
titled Recommendations Relating to the  
Functions and Operations of the  
Australian Sports Drug Agency and related  
matters.

## I: MISCELLANEOUS RECOMMENDATIONS

**Interim 7 and Second 36:** recommend changes in Australian Customs Service Passenger Control Guidelines with respect to "risk category" of athletes and body-builders.

219. In response to those recommendations the Australian Customs Service (ACS) has advised that prior to 21 December 1989 the importation of performance enhancing substances in a passenger's accompanied baggage was not a breach of the Customs (Prohibited Imports) Regulations provided the goods were for the personal use of the passenger or a member of his/her family.

220. An amendment to the Regulations on 21 December 1989 now prohibits the importation of anabolic or androgenic substances or natural or synthetic growth hormones unless written permission to import has been granted by the Secretary of the Department of Community Services and Health.

221. While the ACS has considerable sympathy with the intent of the Committee's recommendations, it does not have "passenger control guidelines" which apply a risk rating to specific classes of passenger. Therefore, the ACS is not in a position to implement **Second 36**.

222. However, profiles exist to identify potential offenders. The profiles are based on a number of factors and are subject to regular change depending on available intelligence and more particularly, on results achieved.

223. As regards **Interim 7** the ACS is aware of the use of performance enhancing substances by certain groups of persons and officers take this into account together with any other data available, when assessing the risk a particular passenger may present to the Customs barrier. The ACS will continue to make its own assessments of the degree of risk which a particular passenger presents. As part of this assessment regard will continue to be had to the Customs (Prohibited Imports) Regulations.

224. For obvious reasons the ACS does not, as a matter of policy, publicly announce profiles of potential offenders or other operational techniques.

**Second 39:** recommends that research be carried out by the Australian Institute of Criminology into the nature and extent of nightclub violence and the incidence of steroid use by bouncers.

225. In response to this recommendation the Australian Institute of Criminology has advised that they would certainly be interested in undertaking a study into nightclub violence and the use of steroids by bouncers. In the course of the inquiries conducted last year by the National Committee on Violence, a number of problems in this area were brought to attention. In addition, a certain amount of material on this sort of violence was assembled by the Committee's secretariat, which was located within the Institute.

226. However, the kind of study envisaged in **Second 39** would require the commitment of considerable resources on the Institute's part, and could only be undertaken if funds were made available for the purpose.

**Second 46:** recommends that the Senate refer the chapter of the report on Regulations for Restricting the Availability of Anabolic Steroids to the Senate Select Committee on Animal Welfare for investigation and report

227. The Senate Select Committee on Animal Welfare has been made aware of this recommendation and provided with the relevant sections of the Reports. The Committee, is conscious of the issue of drug misuse and there is therefore no need for a specific Senate Reference. The Committee made specific reference to the Drugs in Sport Inquiry in their Interim Report on the Racing Industry, of June 1990.

**AUSTRALIAN SPORTS DRUG AGENCY REPORT****THE EDUCATION PROGRAM**

The Education Program of ASDA is made up of four focus areas. These four focus areas include: Consultancy/Training; Resources, Information, Research/Evaluation and Policy.

The following report outlines the objectives of each of the focus areas and the strategies ASDA officers have implemented in order to achieve them. Operational priorities for the next six months are also outlined for each focus area within the education program.

**FOCUS AREAS****CONSULTANCY & TRAINING**

The purpose of the consultancy and training focus area is to provide professional advice and training to assist members of schools and sporting organisations establishing drug education programs.

This area of the education program was initiated by a grant from the National Campaign Against Drug Abuse. The aim of this grant was to facilitate the development of a drug education program for sport educators. Two programs were developed and trialled. One is the Curriculum Development Project (CDP) which provides guidelines and resource materials for secondary school teachers and the other is the Sports Organisations Project (SOP).

The implementation of the CDP in Queensland, New South Wales and the Australian Capital Territory was completed in September 1989 and the evaluation data was collected by December 1989.

The CDP evaluation data has been compiled and analysed. A discussion of these results has been started and it should be completed by 30 July 1990. In general, the implementation process was found to be successful in allowing teachers to develop programs on drugs in sport which followed the guidelines for effective drug education (Commonwealth Department of Health 1987). The CDP resulted in the design of teacher materials which incorporate the components for effective drug education and emphasize a student-centred approach.

The CDP outcomes include; a set of teaching materials suitable for secondary school students, a teacher training program manual for use by drug/health/physical education consultants and guidelines for curriculum development. These materials are in draft and will be available by the end of August.

The SOP was trialled in six Police and Citizen Youth Clubs from the Sydney region. The implementation process and evaluation was completed by the end of March. The evaluation data has been compiled and analysed. The discussion of these results will be completed by 30 July 1990.

This project had a varied impact on the clubs involved with some clubs implementing a number of anti-drug initiatives while others did nothing. The reasons for these differences have been proposed and will be considered when the SOP is implemented with other sporting groups.

The strategies implemented by the PCYC's included policy changes, seminars, print material displays, discussions with athletes and coaches and the design of a camp program which aimed to promote healthy lifestyle practices.

The SOP outcomes include a training program for key people within any sporting organisation, a drug education development model for use with sports organisations, a seminar program for elite athletes and a camp program. All this material is in draft format and should be available by August 1990.

#### AUSTRALIAN RUGBY LEAGUE DRUG EDUCATION PROJECT.

The Australian Rugby League (ARL) and ASDA have established a drug education project for junior players. A proposal for an ongoing and comprehensive drug education project, which can be integrated into ARL's existing education programs, has been developed by ASDA. This proposal has been discussed with ARL management personnel. A working party, representing New South Wales Rugby League and Queensland Rugby League, has been established to implement the project. An informal needs assessment of the working party has been carried out in Sydney and Brisbane which will provide direction to the training program.

The training program is scheduled to begin on 30 July.

The enthusiasm, concern and expertise the working party bring to this project will facilitate useful project outcomes.

#### AUSTRALIAN INSTITUTE OF SPORT DRUG EDUCATION LECTURES

Many athletes from all sports in-residence at the AIS attended drug education lectures presented by ASDA staff. The lectures focussed on providing the athlete with relevant information about drug testing procedures and checking on the legality of over-the-counter and prescribed medications. The athletes were also encouraged to ask specific drug-related questions.

A report on the effectiveness of these lectures was written. Recommendations for future improvement of the drug education program for elite athletes were also outlined in the report.

This report will be presented to the appropriate personnel at the AIS.

#### **LIAISON WITH SPORT AND DRUG EDUCATION AGENCIES**

##### **Australian Coaching Council (ACC)**

Gene Schembri (Technical Advisor), has been identified as a key ACC contact for the ASDA education program. ASDA has held discussions with the ACC about the development of guidelines for designers of coaching accreditation courses who wish to include drug education in the course program. These guidelines will be developed for level one, two and three course designers by the end of 1990. The aim of the guidelines is to assist course developers to address the drugs in sport issue in a comprehensive and positive way by integrating the issue into existing course topics.

The drugs in sport chapter of the level two coaching course text has been written by ASDA and is currently being reviewed and modified.

##### **Australian Sports Medicine Federation**

The drugs in sport component of the level one and two Sports Trainers text book has been written by ASDA. This material is currently being reviewed and modified accordingly.

##### **The Sports Participation Branch, Australian Sports Commission**

ASDA participated in a forum, along with other sports organisations to examine the National Youth Leadership Award Scheme. This forum was followed up by a written proposal outlining the role ASDA could play in this scheme. A response to this proposal has not been forthcoming.

ASDA was also represented at a forum sponsored by the Youth Sports project which provided an opportunity for sports organisations to liaise with education departments or school course accreditation representatives. As a result of ASDA's participation in this forum useful contacts in every State Education department have been established. These contacts are currently acting as advisors for the development of ASDA drug education resource material.

The project coordinators of the Womens Sport Promotion Unit (WSPU) have been contacted by ASDA staff to inform them of our

current educational initiatives. This discussion has led to the promotion of ASDA in the WSPU newsletter 'Active'. ASDA has also been invited to contribute material for publication in 'Active'.

### Drug Education Agencies

Drug Education Agencies have been made aware of the services ASDA provides through their promotion at National Conferences. The Centre for Education and Information on drugs and alcohol (NSW) have directed many requests for specific information on drugs in sport to ASDA. The education departments of New South Wales and Queensland have sought advice and assistance to provide teacher and consultant inservice training on drugs in sport. The Health Education Institute (NSW) is working with ASDA on the development of resource material for secondary school students.

### INFORMATION SERVICES

The purpose of Information Services is to provide access to appropriate and accurate information about drug use in sport for any member of the community.

#### Hotline

The MIMS/DRUGS IN SPORT HOTLINE has been established to meet the drugs in sport information needs of the sporting and general community. A total of 521 calls had been received and responded to between the period of 6 November 1989 and 1 June 1990. A community service announcement which is aired by television stations on an irregular basis has significantly contributed to the community's awareness of the Hotline service. Promotion of this service should be a priority.

The majority of 'Hotline' calls are followed-up by the clients being sent relevant material. Over one hundred requests were followed up in this manner during the first three weeks in June. A vertical file has been established to store some of the information which is mailed to the Hotline clients. This system of follow-up seems to be working efficiently.

A breakdown of the type of calls being received on the Hotline is presented in figure one.

Education Projects	137
Permitted Use of Medicines	76
Drug Information	146
Anabolic Steroid Information	38
Amino Acids	17
Other inquiries	89
Calls from school teachers	18
<b>TOTAL CALLS</b>	<b>521</b>
<b>Information Updates</b>	

Daily newsclippings and international newsclippings are distributed to ASDA staff and eleven key contacts, as identified by the CEO. These clippings are filed for future reference.

Following requests from ASDA staff, literature searches have been arranged, journal articles, and books requested are then generally obtained through inter-library loan.

In liaison with the National Sports Information Centre (NSIC), four Drug Documentation Bulletins have been produced in the last six months. The annual bibliography (a compilation of drug documentation bulletins) will be available in July. This material is sent to one hundred people/organisations. So far, only a few of those receiving the bulletins have requested copies of the items listed. Evaluation of the need for and effectiveness of this service, should be considered.

#### **Newsletter 'Playfair'**

The first edition of the Playfair newsletter has been written and distributed to: State Education, Sport and Health Departments, Key contacts, libraries, Institutes of Sport, National Sports Organisations, relevant Tertiary Education Institutions, and drug education agencies. The feedback about this newsletter indicated that it was well received. A number of organisations requested additional copies to send to their members.

The second edition of 'Playfair' is almost completed. Inadequacies in the desktop publishing facilities have been causing delays for the completion of this publication. However, the improved 'pagemaker' and printing facilities being organised should ensure that the newsletter is produced on a regular basis.

#### **Database/Reference Collection**

The database of 'drugs in sport' articles held by us continues to grow. There are over 1000 entries on the database. A new database system is being set up so that the entries can be queued.

The reference collection is being organised. The books are being catalogued and included in the database. The video collection is still to be organised. The serial collection is expanding and staff have been asked to suggest new titles for ASDA to subscribe to.

### **Community Awareness Program**

A proposal for the development of a 'Drugs in Sport Community Awareness Program' has been drafted. The program will be developed to inform interested school and community groups about the drugs in sport issue. This proposal has gained sponsorship from the Tuggeranong Hyperdome and will be trialled with groups in the Australian Capital Territory.

### **Liaison with Libraries**

To promote liaison between libraries the O'Connell Education Centre (OEC) and the Alcohol and Drug Foundation of Australia (ADFA) are visited on a regular basis. Good relations have been established with ADFA, however, the staff of the OEC library are unenthusiastic about liaising with ASDA. There is a good working relationship established between the National Sports Information Centre and ASDA.

Contact with the three organisations will continue as they are able to provide ASDA with valuable resources.

### **RESOURCE DEVELOPMENT**

The purpose of resource development is to provide resources which complement ASDA's educational initiatives.

#### **The Curriculum Development Project & the Sports Organisation Project**

The resource material and training manuals which were developed during the CDP and SOP projects are in draft format. These resources will be modified according to the results of the projects evaluations. Work on the final drafts of these materials will begin in August 1990.

#### **Country Practice Video Resource Project**

Permission from JNP Productions to reproduce the episode 'Fool's Gold' has been given. A working party of teachers and education consultants from the Queensland and Victorian Education Departments has been established. This working party has been established to develop teaching materials for use with the video.

The writing workshop with the Queensland contingent of the working party has been conducted. The Victorian contingent of the working party will attend a workshop in August.

Draft materials will be developed as a result of these two workshops which will then be trialled before the end of term three. The final product will be available to schools by the end of 1990.

### **Drug Information Brochures**

A series of eleven fact sheets have been produced on the following topics: beta blockers, anabolic steroids, analgesics, stimulants, caffeine, growth hormone, vitamins, alcohol, tobacco, blood doping, diuretics.

These brochures were produced in-house using the available desktop publishing software. These brochures have been written for the 12-15 year age groups. A distribution policy for these brochures needs to be determined and then promoted.

### **Taking Drugs and Taking Part - a TACADE Resource**

The development of the 'Taking Drugs and Taking Part' resource is being undertaken by a working party comprising of ASDA representatives and Health Education Unit representatives. A working committee has been established and have met once to determine the first phase of the resource's development. An advisory group made up of representatives from physical education and health education units in every State Education Department has also been established. The purpose of the advisory group is to provide feedback and direction to the working committee.

The working committee will meet again in August and the draft material is expected to be ready for trialling by the end of 1990.

This resource will be aimed at senior secondary school students examining the sociological aspects of the drugs in sport issue.

### **Australian Institute of Sport Video**

The Australian Institute of Sport (AIS) has sponsored the production of a video which can be used as part of the drug education program for AIS athletes. Preliminary discussions about the aim of this video have been conducted. The production is expected to be completed for use in 1991.

### **EVALUATION, RESEARCH AND POLICY**

The evaluation, research and policy component of ASDA's education program is to provide information for the development of a sound education policy to establish and review policy guidelines for effective drug education for sport; and to assess the overall effectiveness of ASDA in achieving set objectives.

### **Evaluation of CDP and SOP**

The evaluation design was developed by ASDA with the assistance of the Albany Consulting Group. The design followed a 'program logic' model and focussed on evaluating the project process. The evaluation data was collected by ASDA staff working on the CDP and SOP projects and by ASDA staff who did not work on these projects.

The evaluation data has been analysed. Outside assistance was employed to complete this analysis.

The evaluation report is almost complete.

### **National Survey**

An advisory group made up of representatives from a number of tertiary institutions and ASDA, was established. The discussions held with the advisory group have resulted in the development of a preliminary research project. This research project will use focus group discussions to gauge the behaviour, attitudes and knowledge of ASDA's target groups. The information generated by this project should provide direction for the National survey. The Queensland University's Department of Social and Preventative Medicine is working with ASDA on this project. Interview proformas have been designed and focus groups are being organised.

The proformas are being trialled in July.

The interviews will be carried out during August and September and the final report will be available by the end of the year.

### **Readings System**

ASDA staff participate on a voluntary basis in a reading review group. Each participant is assigned four or five readings to be reviewed monthly. At the end of each month the group meet to discuss findings and comment on relevant implications for ASDA.

The information exchanged during these meetings is useful in the development of ASDA policy as well as giving staff access to current drugs in sport information.

### **The Australian Capital Territory Research Project**

The research report of the attitudes and knowledge about drugs in sport of ACT Junior Athletes is in draft. The final report will be completed by October 1990.

EXTRACT OF THE MINUTES OF THE SPORT AND RECREATION MINISTERS' COUNCIL MEETING OF 17 AUGUST 1990 IN WELLINGTON, NEW ZEALAND.

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Agenda Item 5: Recommendation of the Senate Standing Committee on Environment, Recreation and the Arts Inquiry into Drugs in Sport (the Black Report)

5.1 Members were advised of the tabling of both the Interim and Second Reports of the Standing Committee on Environment, Recreation and the Arts Inquiry Drugs in Sport (Black Report) The recommendations which required State and Territory consideration were brought to Members attention. Members were also informed of the three month timeframe in which the Government has available to respond to the final report. Council was informed of the significant action already taken in relation to recommendations of both reports. Members co-operation was now sought to the course of action on five matters where a co-ordinated approach was considered necessary.

5.2 In respect of the recommendation for a joint meeting of health and sports Ministers, members agreed that due to practicalities involved in arranging such a meeting, it would be inappropriate to hold such a joint meeting and that the requirements of the recommendations could best be met through referring sports related issues to SRMC and health related issues to the Ministerial Council on Drug Strategy.

5.3 The Council also noted, without dissent, that the Commonwealth did not intend to accept the Senate Committees recommendations concerning an investigatory Tribunal.

5.4 Council was informed that New Zealand generally shared the concerns expressed by Council members in respect of drugs in sport and that the New Zealand response through the Hillary Commission had been to form a Misuse of Drugs in Sport Taskforce to draft national policy. A separate Government initiative has been the formation of a special Ministerial drugs group, including the Minister of Recreation and Sport, to co-ordinate the fight against drug abuse in all sectors of the community.

5.5 Members were also informed that Australia and New Zealand were considering a joint approach in developing uniform procedures and protocol for sports drug testing and to restrict the availability and use of performance enhancing drugs. The Chairman indicated that it was not possible for a bilateral drugs agreement to be reached with Australia at this time but was hopeful, without preempting the Taskforce findings, that such an agreement may be signed in 1991.

## 5.6 SRMC Resolved to:

- (a) note the action taken by the Commonwealth to date in responding to the recommendations of both reports;
- (b) agree that a joint meeting of Commonwealth and State Ministers for health and sport not be held, but the recommendations on sports matters be considered by SRMC rather than joint meeting of Health and Sport Ministers;
- (c) endorse the IOC List of Doping Classes and Methods as the agreed definition of doping;
- (d) agree to develop State doping policies consistent with that of the ASC and to provide details of their respective State doping policies to the Commonwealth;
- (e) agree that respective Government sports agencies adopt sanctions consistent with those set out in the ASC Doping Policy;
- (f) agree to provide details to the Commonwealth of the licensing and voluntary arrangements for gymnasiums and health centres which operate in their States;
- (g) agree that the Commonwealth prepare a paper on the current situation of licensing arrangements for gymnasiums and health centres for consideration by the next meeting of SRMC;
- (h) note recommendations 8 and 9 of the Second Report and Commonwealth action in response to those recommendations;
- (i) note the action taken by the Commonwealth to encourage the adoption of consistent sanctions by "professional" sporting organisations;
- (j) note the action taken in relation to the use of steroids by the pacing and coursing industries; and
- (k) note that the Commonwealth did not intend to establish an Investigatory Tribunal along with the Australian Sports Drug Agency (ASDA).

RESOLUTION C90/2

**Agenda Item 6: Commonwealth Drug Testing Agency**

6.1 Members were informed of progress in establishing an independent Commonwealth doping control agency, as agreed to at SRMC 19, with formal links to each State and Territory. Under the proposed draft legislation Australian Sports Drug Agency (ASDA) will be able to sample and test athletes competing in Australia at the national or international level. Members generally supported national coverage by ASDA

including the ability to test athletes below the national level if requested by State Governments or national and state sporting organisations.

6.2 Members also agreed on the desirability for the States and Territories to enact complementary legislation to confer powers on ASDA in relation to drug testing which derive from State legislative powers and agreed to take the issue up with their respective Attorneys-General. The Commonwealth undertook to inform the Commonwealth Attorney-General that it would be providing States and Territories with assistance in drafting guidelines for the introduction of complementary legislation.

6.3 Members sought clarification on the question of privacy and notification of an athlete testing positive to prohibited drugs conforming to the International Olympic Committee's guidelines. Members were informed that extensive consultations with the Privacy Commission and the Human Rights and Equal Opportunity Commission had been undertaken when the ASDA legislation was developed. The Commonwealth indicated that it would reconsider and further advise members on the question of notification to a state institute/academy of any positive test result.

6.4 SRMC Resolved to:

- (a) note the need for complementary legislation;
- (b) note the proposed timing for introduction and proclamation of Commonwealth legislation to establish ASDA;
- (c) agree to seek approval for the introduction of complementary legislation following proclamation of the Commonwealth legislation;
- (d) agree to consult with the Commonwealth about provisions which should be incorporated into the State legislation; to assist the process, the Commonwealth will provide the States with as much information as possible to help with the framing of the legislation.

RESOLUTION C90/3

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# **Australian Sports Commission**

## **Doping Policy**

**August 1990**

**DOPING POLICY OF  
THE AUSTRALIAN SPORTS COMMISSION**

**Position Statement**

1 Doping is forbidden. The ASC condemns the use of performance enhancing substances in sport as both dangerous to health and contrary to the ethics of sport. It recognises the need to take strong and positive action to eliminate doping.

2 The object of this Doping Policy is to eliminate doping in Australian sport. No athlete, coach, official or organisation involved with or receiving financial or other assistance from the ASC shall engage in a doping practice.

3 In this Policy:

**"Doping Practice" means:**

- (a) the taking or use of drugs or stimulants or participation in other doping methods prohibited by the IOC; or
- (b) refusal to provide a sample for testing requested by ASDA or any other agency recognised by the ASC; or
- (c) aiding, abetting, counseling or procuring or being knowingly involved in an activity referred to in (a) or (b).

**"ASC" means the Australian Sports Commission established by the Australian Sports Commission Act 1989.**

**"ASDA" means the Australian Sports Drug Agency established by the Commonwealth Government.**

**"Sporting Organisation" means all organisations in Australia receiving financial or other assistance from the ASC.**

**"International Sporting Organisation"** means all organisations recognised by the ASC as international sports federations and international peak sports organisations.

**"IOC"** means the International Olympic Committee created by the Congress of Paris on 23 June 1894, being the organisation entrusted with the control and development of the modern Olympic Games.

**"Member"** means any person or body which is a member of a Sporting Organisation and includes persons or bodies which are members of a member and any person or body which are members of them.

Words in the singular include the plural and vice versa.

4 This Doping Policy applies to:

- (a) Australian Institute of Sport ("AIS") scholarship holders;
- (b) employees, consultants and contractors of the ASC;
- (c) Sporting Organisations, their members and employees and other persons receiving financial or other assistance either directly from the ASC or through a Sporting Organisation receiving financial or other assistance from the ASC; and
- (d) other athletes having access to facilities from the ASC.

### Drug Testing Authorities

5 ASDA is recognised as the agency responsible in Australia for the sampling and testing of athletes for the detection of a doping practice. The ASC recognises that ASDA may select any athlete to provide a sample who:

- (a) is selected to compete for Australia in an international sporting event, or
- (b) competes in an international sporting event in Australia, or
- (c) is a possible selection to compete for Australia, or
- (d) receives Commonwealth financial support either directly or through a Sporting Organisation or a member, or
- (e) uses Commonwealth facilities, or
- (f) has recorded a positive test result and is currently under suspension by his or her Sporting Organisation, or
- (g) is a member of a Sporting Organisation which has contracted with ASDA for drug testing of its members.

6 An athlete may be selected to provide any number of samples for drug testing in a year, whether in or out of competition.

7 The ASC recognises International Sporting Organisations as agencies responsible for procuring samples for testing in or out of competition, whether in Australia or overseas, for the detection of doping practices, provided acceptable testing procedures approved by ASDA and IOC accredited laboratories are used.

### Obligations of Sporting Organisations

8 All Sporting Organisations receiving financial or other assistance from the ASC shall:

- (a) permit and assist ASDA to attend competitions conducted by them or under their auspices in order to obtain samples for testing of any doping practice;
- (b) permit and assist ASDA to obtain samples for testing from their members out of competition;
- (c) notify their athletes, coaches and officials that they are liable for selection to provide samples for testing for detection of any doping practices;
- (d) complete and return "Drug Testing-Athlete Information", "Drug Testing-National Sporting Organisations" and similar forms required for the purposes of ASDA at the request of ASDA or the ASC;
- (e) require and cause their athletes, coaches and officials to permit and assist ASDA to collect samples for testing and comply with requests made under (d);
- (f) use ASDA to conduct any additional tests required by the Sporting Organisation in Australia at its own expense;
- (g) provide the ASC and ASDA with a copy of its doping policy that conforms with this Doping Policy and notify any subsequent changes, or advise the ASC that it agrees to abide by the provisions of this Doping Policy so far as they are relevant to Sporting Organisations and their members, within three months of acceptance by the Sporting Organisation of financial assistance from the ASC;

(b) prior to determining any sanction against an athlete, official or member alleged to have committed a doping practice, invite the athlete, official or member to attend and be heard by the Sporting Organisation;

(i) where the sport controlled by the Sporting Organisation is included in the program of the Olympic or Commonwealth Games, agree that any athlete, coach, official or other person who is found to have committed a doping practice shall be ineligible for membership of, funding by, holding office in, representing, or competing in events and competitions conducted by or under the auspices of, the Sporting Organisation, as follows:

- (1) a two-year suspension for the first offence
- (2) life ban for the second offence

PROVIDED THAT the Sporting Organisation may in its discretion impose a suspension for a period of three months for a breach of its doping policy where the analysis of the sample reveals the presence of a drug prohibited by the IOC which has been taken orally as a cough suppressant, painkiller, decongestant or antihistamine and the Sporting Organisation is satisfied that it was not taken for the purpose of enhancing sporting performance

BUT the sporting organisation shall not impose a suspension for a lesser period than any sanction imposed by an International Sporting Organisation, of which it is a member or to which it is subject, on that person; and

(j) where the sport controlled by the Sporting Organisation is not included in the program of the Olympic or Commonwealth Games, agree to apply to any athlete, coach, official or other person who is found to have committed a doping practice the sanctions provided in (i) unless another range of sanctions is acceptable to the A.S.C.

#### Advice to Commission from ASDA

9 ASDA will maintain a Register of Defaulting Competitors to record the names of athletes who have positive test results or who fail to provide a sample for testing. For those athletes assisted directly by the ASC or through Sporting Organisations receiving financial or other assistance from the ASC, ASDA will notify the Chairman or Executive Director of the ASC of the athlete's name and test details. The Chairman or Executive Director will not make the name available to other officers of the ASC, other than the AIS Director where an AIS athlete is involved, unless in the Chairman's or Executive Director's judgment there are compelling reasons to do so.

#### Advice to Commission from Sporting Organisations

10 Where ASDA notifies a Sporting Organisation to whom this Doping Policy applies of the name of an athlete who returns a positive test result or who fails to comply with a requirement to provide a sample for testing, the Sporting Organisation is required to notify the Chairman or Executive Director of the ASC of the person's name and any reasons given for the notice within ten days of receiving the notice from ASDA.

11 Sporting Organisations to whom this Doping Policy applies will notify the Chairman or Executive Director of the ASC of any sanction imposed on a member by the Sporting Organisation within ten days of the decision to impose it. Where an International Sporting Organisation imposes any sanction on a member of the Sporting Organisation, the Sporting Organisation will notify the Chairman or Executive Director of the ASC and the Chief Executive of ASDA of the name of the member and details of and reason for the sanction within ten days of being notified of the sanction.

**Commission Right to Investigate**

ATTACHMENT 3

12 The ASC may investigate any person or organisation which receives financial or other assistance from the ASC for any alleged involvement in a doping practice whether as the result of selection for the provision and testing of a sample or on the basis of other information. The ASC may also refer this information to the ASDA, Australian Olympic Committee, Australian Commonwealth Games Association or other Sporting Organisations for the purposes of this Doping Policy.

**Invitation To Be Heard**

13 Where the Chairman or Executive Director of the ASC receives a notification from ASDA or a Sporting Organisation that an athlete has returned a positive test result or has failed to comply with a request to provide a sample or believes that an athlete, official or Sporting Organisation may have breached this Doping Policy the Chairman or Executive Director may:

(a) notify in writing the athlete, official or organisation concerned of the intention of the ASC to enquire and determine whether a breach of this Doping Policy has occurred and setting out the procedures for determining the matter, and

(b) invite such person(s) or organisation(s) to attend and be heard by the ASC at the meeting stated in such notice to present any relevant material concerning the alleged breach and as to why he or she or it should not be subject to the sanctions prescribed in this Doping Policy.

### Sanctions

ATTACHMENT 3

14 The ASC will withdraw, and revoke eligibility for, financial or other assistance to any AIS scholarship holder, Sports Talent Encouragement Plan grant recipient, AIS facilities pass holder, or coach, official or other person receiving financial or other assistance from the ASC; who it determines has committed a breach of this Doping Policy, for a period as follows:

- (a) a two-year suspension for the first offence
- (b) life ban for the second offence

PROVIDED THAT the ASC may in its discretion impose a suspension for a period of three months for a breach of its Doping Policy where the analysis of the sample reveals the presence of a drug prohibited by the IOC which has been taken orally as a cough suppressant, painkiller, decongestant or antihistamine and the ASC is satisfied that it was not taken for the purpose of enhancing sporting performance

BUT the ASC shall not impose a suspension for a lesser period than any sanction imposed by an International Sporting Organisation or Sporting Organisation on that person.

15 All persons employed by the ASC and all AIS athletes must sign an undertaking binding themselves to observe this Doping Policy.

16 Where a member of staff or person otherwise employed or engaged by the ASC is found to have committed a breach of this Doping Policy, that breach will constitute improper conduct under the ASC Discipline Code and the ASC will proceed against that person under that Code.

17 Financial or other assistance to a Sporting Organisation may be withdrawn and eligibility for financial or other assistance from the ASC revoked where the ASC determines a Sporting Organisation has committed a breach of this Doping Policy, including but not limited to the requirements of clauses 7 and 27 and a Sporting Organisation's failure to deal effectively and expeditiously in the event of a positive test on a member notified by ASDA or other agency referred to in clause 8. The ASC will make determinations for the purpose of this clause after following the procedures in clause 13(a) and (b).

18 A breach of this Doping Policy referred to in clause 17 may result in the immediate withdrawal of ASC financial and other assistance to a Sporting Organisation for the remainder of the current financial year and for the succeeding financial year. Sanctions are cumulative, and each breach of the Doping Policy may invalidate eligibility for assistance for each succeeding financial year in which the Sporting Organisation is eligible for ASC funding.

19 The above sanctions may be applied to a person or organisation regardless of any sanction or penalty, its duration or timing or whether current or past, imposed by any other organisation.

20 Failure by an invited person or organisation to attend a meeting to be heard by the ASC for whatever reason does not invalidate the right of the ASC to impose a sanction in accordance with this Doping Policy.

21 Determinations under this Doping Policy will be made by the ASC or any committee it may establish for this purpose.

### Notice of Sanction

22 The ASC will give written notice to

(a) person(s) and organisation(s) concerned; and

(b) ASDA and any other person or organisations that the ASC believes should be informed;

of any decision to impose a sanction for the purposes of this Doping Policy.

23 A press release may be issued by the ASC in relation to any sanction imposed under this Doping Policy.

### Professional Disclosure

24 This Doping Policy does not intend to require any medical practitioner or sports scientist or psychologist or other person in a position of professional confidentiality with an athlete to make disclosure about that athlete's personal affairs or medical condition that is unrelated to the athlete's fitness to train or participate in sporting competition or does not involve a breach of this Doping Policy. This exemption does not apply to coaches, administrators or others receiving financial either directly from the ASC or through a Sporting Organisation receiving financial or other assistance from the ASC.

### Review of Sanction

25 Where a person or organisation to which a sanction has been applied under this Doping Policy has new and relevant information concerning the breach he or she or it may make written application to the Executive Director of the ASC setting out the grounds for a possible review of that sanction. The ASC may consider the application and may, after following the procedures in clause 13(a) and (b), alter any decision made previously including

a reduction or withdrawal of the sanction BUT will not be a suspension currently imposed on the person or organisation by an International Sporting Organisation. Any change to the previous decision will be notified in accordance with clause 22.

26 Where the ASC is aware that other Sporting Organisations also have sanctions imposed on a person or organisation it will consult with those Sporting Organisations prior to making a determination altering its previous sanction.

#### Education and Other Initiatives

27 All Sporting Organisations will be required to undertake the following anti-drugs initiatives:

- (a) provide the ASC and ASDA with a copy of their International Sports Federation's current doping policy;
- (b) support the Doping policies of the ASC and ASDA;
- (c) develop and implement, in consultation with ASDA, drug education and intervention programs for their members; and
- (d) support the information and education initiatives of ASDA.

28 The ASC, through the AIS, will develop and implement drug education programs for its athletes, coaches and officials in consultation with ASDA.

29 The ASC will support the information and education initiatives of ASDA.

30 The ASC supports the IOC, Commonwealth Government and ASDA in the development of international initiatives to eliminate doping in sport.

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS  
OF AUSTRALIA, CANADA AND THE UNITED KINGDOM CONCERNING  
THE RECIPROCAL DEVELOPMENT AND ENFORCEMENT  
OF MEASURES AGAINST DOPING IN SPORT

This Memorandum of Understanding (MOU) is based upon a conviction among the Governments of Australia, Canada and the United Kingdom (hereinafter referred to as the "Participating Parties") that international co-operation aimed at combating unethical doping in sport should derive from a spirit of mutual trust and shared values between nations.

The Memorandum is based fundamentally on the principles enunciated in the International Olympic Charter Against Doping in Sport and its operational annexes.

The Memorandum commits the Participating Parties to draw up, and thereafter implement, a realistic programme of action in respect of:

- (i) mutual exchange of information and experience;
- (ii) mutual assessment of programme achievement; and
- (iii) creating and maintaining an effective co-ordination.

## 1. MUTUAL EXCHANGE

1.1 The Parties will, subject to their respective applicable laws and policies, participate in a programme of free and continuous exchange of information on a range of relevant anti-doping subjects including:

- development of educational programmes;
- the content of, and outputs from, research projects;
- issues affecting the protection of individual rights and freedom of information; and
- the structure and approach adopted by Participating Parties to administer anti-doping policies, including appropriate investigative arrangements.

1.2 The Parties will engage in exchanges of expertise, as appropriate, to facilitate mutual learning.

1.3 The Parties will review annually the contact, scope and quality of the exchange programme, and to modify and develop the programme to the extent allowable by available resources.

## 2. MUTUAL ASSESSMENT

2.1 The Participating Parties will, subject to their respective applicable laws and policies, implement a programme of mutual assessment in conformity with the principles set out in the International Olympic Charter Against Doping in Sport and its operational annexes. Each Party's programme will be periodically evaluated against a common normative standard covering the elements specified in the Monitoring and Evaluation Instrument to be adopted as an annex to the International Olympic Charter.

2.2 The evaluation's purpose will be to reinforce positively the spirit of mutual co-operation and encouragement central to the promotion of this Memorandum, and to facilitate a co-ordinated advance in the anti-doping programmes administered by Participating Parties.

2.3 The process for mutual assessment and evaluation will rely upon self-completion by each Party of a standard document indicating the extent of development of its domestic anti-doping programmes. The programme elements to be evaluated are those identified in the Model for a National Anti-Doping Programme of the International Olympic Charter Against Doping in Sport.

2.4 Participating Parties will, in particular, assess the extent to which the testing system implemented by each Party satisfies or exceeds the minimum procedural standards set by the International Olympic Charter Against Doping in Sport, and such operational testing objectives as are set by Participating Parties from time to time.

2.5 Participating Parties will draw up a joint action plan, as per the proposed Operational Plan annexed to this Memorandum, to be reviewed annually, aimed at facilitating the testing of athletes from any country party to this Memorandum by any Participating Party in conformity with the provisions of the drug-testing programme applicable in that latter country.

### 3. CO-ORDINATING MECHANISM AND OPERATIONAL PLAN

3.1 Participating Parties will establish a procedure for recording the results of all elements of this self-assessment exercise annually and for free access by Participating Parties to this information.

3.2 Each Participating Party will nominate an implementing authority which is responsible for the co-ordination and implementation of this Memorandum. A Participating Party may at any time, following notice in writing to the other Participating Parties, nominate a new implementing authority.

3.3 Each Party will by 30 June annually provide to the other Parties its proposed action plan for the following twelve months as per the proposed Operational Plan annexed to this Memorandum.

### 4. AMENDMENT AND DURATION OF MEMORANDUM

4.1 This Memorandum may be amended at any time by mutual consent of the Participating Parties.

4.2 This Memorandum will become effective upon signature by representatives of the Participating Parties and will continue for a period of five years. A Participating Party may terminate this Memorandum at any time by giving six months advance notice in writing to the other Participating Parties.

For the Government  
of Australia

For the Government  
of Canada

For the Government  
of the United Kingdom

## PROPOSED OPERATIONAL PLAN FOR THE IMPLEMENTATION OF THE TRILATERAL MEMORANDUM OF UNDERSTANDING AGAINST DOPING IN SPORT BETWEEN AUSTRALIA, CANADA AND THE UNITED KINGDOM

The following document presents a proposed Operational Plan for the accompanying Memorandum of Understanding between the Governments of Australia, Canada and the United Kingdom Concerning the Reciprocal Development and Enforcement of Measures against Doping in Sport.

### 1. MUTUAL EXCHANGE

1.1 The Mutual Exchange Initiative is the fundamental element of this Memorandum. The following principles will guide this Initiative:

- that the exchange of information and dialogue on anti-doping information among Participating Parties be on a continuous and ongoing basis;
- that an annual formal review of the Exchange Initiative be conducted to both review the previous year's progress and to position the upcoming year; and
- that the Assessment element of the Memorandum be used to identify specific programmes or issues for the Exchange Initiative.

1.2 The following Anti-Doping Programme areas, subject to the applicable laws and policies of the respective Participating Party, will form the basis for the Exchange Initiative:

- i) Operations and Structure:
  - infrastructures for the delivery of national anti-doping programmes.
- ii) Education/Promotion:
  - anti-doping campaign.
- iii) Due Process:
  - appeals, arbitration;
  - human rights; and
  - legal issues.
- iv) Research:
  - detection methodology;
  - identification of new doping substances; and
  - effects of long-term doping practices.

1.3 These programme areas are to be expanded upon and subsequently prioritised for an action plan in the Exchange Initiative.

### 2. MUTUAL ASSESSMENT

2.1 The Mutual Assessment Initiative will be based upon the framework provided in the International Olympic Charter Against Doping in Sport Annex - Model for a National Anti-Doping Programme.

2.2 Specifically, the four steps in the Assessment Initiative will be:

- i) Refinement of the Model for a National Anti-Doping Programme - Monitoring and Evaluation Instrument.
- ii) Completion by each Party of its own national anti-doping programmes using the Monitoring and Evaluation Instrument.
- iii) Mutual Exchange and Assessment of the Self-Completed Monitoring and Evaluation Documents among all Parties. The mutual exchange of the self-completed assessments will generate projects and programmes for the Exchange Initiative. This activity is to include both the exchange of documentation and direct visitation, subject to available resources.
- iv) Testing or doping control represents one of the more sensitive and complex areas of the Mutual Assessment Initiative. The following principles and first steps will guide the specific terms of any testing component of the Assessment Initiative:
  - that athletes will be tested within the system utilised by each Party, meeting at a minimum the procedural standards and the laboratory accreditation as established in the International Olympic Charter Against Doping in Sport;
  - that each Party will conduct doping controls (testing) on athletes from other countries upon the request and at the expense of the official implementing authority of the requesting nation; and
  - that an athlete from a country which is a party to this Memorandum, who is training for an extensive period in another country, will become subject to testing under the provisions of the drug testing programme of the country in which he or she is training and at the expense of the host nation.

### 3. CO-ORDINATION

3.1 It is proposed that, subject to signature by representatives of the Participating Parties bringing the Memorandum into effect, the particulars of the doping controls (testing) between Parties will be agreed to by 30 June 1991. The operations of both the National Anti-Doping Programme self-evaluations and the doping controls (testing) should commence in July 1991 following the exchange of proposed action plans for the twelve month period.

3.2 Any Party to this Memorandum may approach the others for a meeting of sports officials to be held to develop and agree to amendments to the content of future Operational Plans, share knowledge and plan for strategic directions in future years.

3.3 A meeting of representatives of the Participating Parties will be convened, if necessary, during 1991-92 to assess progress of the Operational Plan, suggest refinements and prepare a joint report to the signatories of the Memorandum.