



**Montenegrin Olympic Committee**

# **NATIONAL ANTI-DOPING RULES**

*(Based upon the 2009 revised World Anti-Doping Agency Code)*

January 2011

# TABLE OF CONTENTS

INTRODUCTION .....	3
ARTICLE 1 APPLICATION OF RULES .....	5
ARTICLE 2 ANTI-DOPING RULE VIOLATIONS.....	6
ARTICLE 3 PROOF OF DOPING.....	11
ARTICLE 4 THE <i>PROHIBITED LIST</i> .....	13
ARTICLE 5 <i>TESTING</i> .....	17
ARTICLE 6 ANALYSIS OF <i>SAMPLES</i> .....	21
ARTICLE 7 RESULTS MANAGEMENT .....	22
ARTICLE 8 DISCIPLINARY PROCEDURE.....	27
ARTICLE 9 AUTOMATIC <i>DISQUALIFICATION</i> OF INDIVIDUAL RESULTS.....	32
ARTICLE 10 SANCTIONS ON INDIVIDUALS .....	32
ARTICLE 11 <i>CONSEQUENCES</i> TO TEAMS.....	52
ARTICLE 12 SANCTIONS AND COSTS ASSESSED AGAINST <i>NATIONAL FEDERATIONS</i> .....	53
ARTICLE 13 APPEALS .....	53
ARTICLE 14 REPORTING AND RECOGNITION.....	57
ARTICLE 15 MUTUAL RECOGNITION .....	60
ARTICLE 16 STATUTE OF LIMITATIONS.....	60
ARTICLE 17 <i>MOC COMPLIANCE</i> REPORTS TO WADA.....	61
ARTICLE 18 AMENDMENT, INTERPRETATION AND VALIDITY .....	61
APPENDIX I - DEFINITIONS.....	64

## **INTRODUCTION**

### **Preface**

On October 16, 2007, the Montenegrin Olympic Committee (*MOC*) accepted the World Anti-Doping Code (the "*Code*"). These Anti-Doping Rules are adopted and implemented in conformance with the *MOC's* responsibilities under the *Code*, and are in furtherance of the *MOC's* continuing efforts to eradicate doping in Montenegro.

Anti-Doping Rules, like *Competition* rules, are sport rules governing the conditions under which sport is played. *Athletes, Athlete Support Personnel*, and other *Persons* accept these rules as a condition of participation and shall be bound by them. These sport-specific rules and procedures, aimed at enforcing anti-doping principles in a global and harmonized manner, are distinct in nature and, therefore, not intended to be subject to, or limited by any national requirements and legal standards applicable to criminal proceedings or employment matters. When reviewing the facts and the law of a given case, all courts, arbitral tribunals and other adjudicating bodies should be aware of and respect the distinct nature of the anti-doping rules in the *Code* and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world with an interest in fair sport.

The *Code* defines *NADOs* as;

*The entity(ies) designated by each country as possessing the primary authority to adopt and implement anti-doping rules, direct the collection of Samples, the management of test results, and the conduct of hearings, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional Anti-Doping Organization for such countries. If this designation has not been made by the competent public authority(ies), the entity must be the country's National Olympic Committee or its designee.*

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

Anti-doping programs seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as "the spirit of sport"; it is the essence of Olympism; it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is characterized by the following values:

- Ethics, fair play and honesty
- Health
- Excellence in performance
- Character and education
- Fun and joy
- Teamwork

- Dedication and commitment
- Respect for rules and laws
- Respect for self and other *Participants*
- Courage
- Community and solidarity

Doping is fundamentally contrary to the spirit of sport.

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

The National Anti-Doping Programme was established by the *MOC*. With the objective of acting as the independent *Anti-Doping Organization* for Montenegro, the *MOC* has the necessary authority and responsibility for:

- Planning, coordinating, implementing, monitoring and advocating improvements in *Doping Control*;
- Cooperating with other relevant national organizations, agencies and other *Anti-Doping Organizations*;
- Encouraging reciprocal *Testing* between *National Anti-Doping Organizations*;
- Promoting anti-doping research;
- Where funding is provided, withholding some or all funding, during any period of his or her *Ineligibility*, to any *Athlete* or *Athlete Support Personnel* who has violated anti-doping rules;
- Vigorously pursuing all potential anti-doping rule violations within its jurisdiction including investigating into whether *Athlete Support Personnel* or other *Persons* may have been involved in each case of doping.
- Planning, implementing and monitoring anti-doping information and education programs.

The *MOC* thereby is a distinct body, independent from the disciplinary authorities (the *Montenegro Anti-Doping Disciplinary Panel* and *Montenegro Anti-Doping Appeal Panel*).

### **Scope**

These Anti-Doping Rules shall apply to the *MOC*, each *National Federation* of Montenegro, and each *Participant* in the activities of the *National Federations* by virtue of the *Participant's* membership, accreditation, or participation in their *National Federations*, or their activities or *Events*. Any *Person* who is not a member of a *National Federation* of Montenegro and who fulfills the requirements to be part of the *MOC Registered Testing Pool*, must become a member of the *Person's National Federation*, and shall make himself or herself available for *Testing*, at least twelve (12) months before participating in *International Events* or *Events* of his or her *National Federation*.

These Anti-Doping Rules shall apply to all *Doping Controls* over which the *MOC* has jurisdiction.

## **ARTICLE 1 APPLICATION OF RULES**

### **1.1 Application to *National Sports Federations***

**1.1.1** *National Sports Federations* shall accept these Anti-Doping Rules and incorporate these Anti-Doping Rules either directly or by reference into their governing documents, constitution and/or rules and thus as part of the rules of sport and the rights and obligations governing their members and *Participants*.

**1.1.2** The application of these Anti-Doping Rules to *Participants* is based on the membership obligations that exist between *National Sports Federations* and their members or *Participants* through those individuals' agreement to participate in sport according to its rules.

**1.1.3** As a condition of receiving financial and/or other assistance from the Government of Montenegro and/or the *MOC*, *National Sports Federations* shall accept and abide by the spirit and terms of the Montenegro Anti-Doping Programme and these Anti-Doping Rules, including the application of its sanctions to individuals, and shall respect the authority of, and co-operate with, the *MOC* and the hearing bodies in all anti-doping matters which are not governed by the rules of the relevant International Federation in accordance with the *Code*.

**1.1.4** By the adoption of these Anti-Doping Rules and their incorporation into their governing documents and rules of sport, *National Sports Federations* recognize the authority and responsibility of the *MOC* for implementing the Montenegro Anti-Doping Programme and authorize the *MOC* to carry out *Doping Control* and their members and *Participants* accordingly recognize and accept this authority and responsibility.

The International Federation and the *MOC* respect each other's authority and responsibility as foreseen in the *Code*.

**1.1.5** By the adoption of these Anti-Doping Rules and their incorporation into their governing documents and rules of sport, *National Sports Federations* also formally submit the *National Sports Federation* and all *Athletes* under its jurisdiction or control or subject to its governing documents or rules of sport to these Anti-Doping Rules. They agree to abide by the decisions made pursuant

to these Anti-Doping Rules, in particular the decisions of the *Montenegro Anti-Doping Disciplinary Panel* and the *Montenegro Anti-Doping Appeal Panel*. Their members and *Participants* accordingly recognize and accept this submission and agreement subject to the rights of appeal foreseen in these rules.

## **1.2 Application to *Persons***

**1.2.1** The *MOC* Anti-Doping Rules apply to all *Persons* who:

**1.2.1.1** are members of a *National Sports Federation* of Montenegro, regardless of where they reside or are situated;

**1.2.1.2** are members of a *National Sports Federation's* affiliated members, clubs, teams, associations or leagues;

**1.2.1.3** participate in any capacity in any activity organized, held, convened or authorized by a *National Sports Federation* of Montenegro or its affiliated members, clubs, teams, associations or leagues; and

**1.2.1.4** participate in any capacity in any activity organized, held, convened or authorized by a *National Event* organization, or a national league not affiliated with a *National Sports Federation*.

**1.2.2** Participants including *Minors* are deemed to accept, submit to and abide by these Anti-Doping Rules by virtue of their participation in sport.

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

*[Comment 'a' to Article 2: The purpose of Article 2 is to specify the circumstances and conduct which constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules has been violated.]*

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.8 of these Anti-Doping Rules).

*Athletes* and other *Persons* shall be responsible for knowing what constitutes an anti-doping rule violation and the substances and methods which have been included on the *Prohibited List*.

The following constitute Anti-Doping Rule Violations:

## **2.1 Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*.**

**2.1.1** It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. *Athletes* are responsible for any *Prohibited Substance* or its *Metabolites* or *Markers* found to be present in their *Samples*. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

*[Comment to Article 2.1.1: For purposes of anti-doping violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), these Anti-Doping Rules adopt the rule of strict liability which was found in the Olympic Movement Anti-Doping Code ("OMADC") and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, an Athlete is responsible, and an anti-doping rule violation occurs, whenever a Prohibited Substance is found in an Athlete's Sample. The violation occurs whether or not the Athlete intentionally or unintentionally used a Prohibited Substance or was negligent or otherwise at fault. If the positive Sample came from an In-Competition test, then the results of that Competition are automatically invalidated (Article 9 (Automatic Disqualification of Individual Results)). However, the Athlete then has the possibility to avoid or reduce sanctions if the Athlete can demonstrate that he or she was not at fault or significant fault (Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances)) or in certain circumstances did not intend to enhance his or her sport performance (Article 10.4 (Elimination or Reduction of the Period of Ineligibility for Specified Substances under Specific Circumstances)).*

*The strict liability rule for the finding of a Prohibited Substance in an Athlete's Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all "clean" Athletes and fairness in the exceptional circumstance where a Prohibited Substance entered an Athlete's system through no fault or negligence on the Athlete's part. It is important to emphasize that while the determination of whether the anti-doping rule has been violated is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict*

*liability principle set forth in MOC's Anti-Doping Rules has been consistently upheld in the decisions of CAS.]*

**2.1.2** Sufficient proof of an anti-doping rule violation under Article 2.1 is established by either of the following: presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in the *Athlete's A Sample* where the *Athlete* waives analysis of the *B Sample* and the *B Sample* is not analyzed; or, where the *Athlete's B Sample* is analyzed and the analysis of the *Athlete's B Sample* confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the *Athlete's A Sample*.

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

**2.1.3** Excepting those substances for which a quantitative threshold is specifically identified in the *Prohibited List*, the presence of any quantity of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample* shall constitute an anti-doping rule violation.

**2.1.4** As an exception to the general rule of Article 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

## **2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method**

*[Comment to Article 2.2: It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the Comment to Article 3.2 (Methods of Establishing Facts and Presumptions), unlike the proof required to establish an anti-doping rule violation under Article 2.1, Use or Attempted Use may also be established by other reliable means such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, or other analytical information which does not otherwise satisfy all the requirements to establish "Presence" of a Prohibited Substance under Article 2.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample alone where the Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]*

**2.2.1** It is each *Athlete's* personal duty to ensure that no *Prohibited Substance* enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing *Use* on the *Athlete's* part be demonstrated in order to establish an anti-doping rule violation for *Use* of a *Prohibited Substance* or a *Prohibited Method*.

**2.2.2** The success or failure of the *Use* or *Attempted Use* of a *Prohibited Substance* or *Prohibited Method* is not material. It is sufficient that the *Prohibited Substance* or *Prohibited Method* was *Used* or *Attempted* to be *Used* for an anti-doping rule violation to be committed.

*[Comment to Article 2.2.2: Demonstrating the "Attempted Use" of a Prohibited Substance requires proof of intent on the Athlete's part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the strict liability principle established for violations of Article 2.1 and violations of Article 2.2 in respect of Use of a Prohibited Substance or Prohibited Method.]*

*An Athlete's Use of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Athlete's Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition will be a violation of Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) regardless of when that substance might have been administered.)]*

### **2.3 Refusing or failing without compelling justification to submit to *Sample* collection after notification as authorized in these Anti-Doping Rules, or otherwise evading *Sample* collection.**

*[Comment to Article 2.3: Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Article expands the typical pre-Code rule to include "otherwise evading Sample collection" as prohibited conduct. Thus, for example, it would be an anti-doping rule violation if it were established that an Athlete was hiding from a Doping Control official to evade notification or Testing. A violation of "refusing or failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" Sample collection contemplates intentional conduct by the Athlete.]*

**2.4 Violation of applicable requirements regarding *Athlete* availability for *Out-of-Competition Testing*, including failure to file whereabouts information and missed tests which are declared based on rules which comply with the International Standard for Testing. Any combination of three missed tests and/or filing failures committed within an eighteen-month period, as determined by Anti-Doping Organizations with jurisdiction over the *Athlete* shall constitute an anti-doping rule violation.**

*[Comment to Article 2.4: Separate whereabouts filing failures and missed tests declared under the rules of MOC or any other Anti-Doping Organization with authority to declare whereabouts filing failures and missed tests in accordance with the International Standards for Testing shall be combined in applying this Article. In appropriate circumstances, missed tests or filing failures may also constitute an anti-doping rule violation under Article 2.3 or Article 2.5.]*

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

*[Comment to Article 2.5: This Article prohibits conduct which subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods; for example, altering identification numbers on a Doping Control form during Testing, breaking the B Bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organization.]*

**2.6 Possession of Prohibited Substances and Methods**

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

**2.6.2** Possession by an *Athlete Support Personnel In-Competition* of any *Prohibited Method* or any *Prohibited Substance*, or Possession by *Athlete Support Personnel Out-of-Competition* of any *Prohibited Method* or any *Prohibited Substance* which is prohibited *Out-of-Competition*, in connection with an *Athlete*, *Competition* or training, unless the *Athlete Support Personnel*

establishes that the *Possession* is pursuant to a *TUE* granted to an *Athlete* in accordance with Article 4.4 (Therapeutic Use) or other acceptable justification.

*[Comment to Article 2.6.1 and 2.6.2: Acceptable justification would not include, for example, buying or possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician's prescription, e.g., buying Insulin for a diabetic child.]*

*[Comment to Article 2.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]*

## **2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method.**

## **2.8 Administration or Attempted administration to any Athlete In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation.**

*[Comment 'b' to Article 2: The Code does not make it an anti-doping rule violation for an Athlete or other Person to work or associate with Athlete Support Personnel who are serving a period of Ineligibility. However, MOC may adopt its own specific policy which prohibits such conduct.]*

## **ARTICLE 3 PROOF OF DOPING**

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

The *MOC* has the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the *MOC* has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a

reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the *Athlete* or other *Person* alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Articles 10.4 and 10.6 where the *Athlete* must satisfy a higher burden of proof.

*[Comment to Article 3.1: This standard of proof required to be met by MOC is comparable to the standard which is applied in most countries to cases involving professional misconduct. It has also been widely applied by courts and hearing panels in doping cases. See, for example, the CAS decision in N., J., Y., W. v. FINA, CAS 98/208, 22 December 1998.]*

### **3.2 Methods of Establishing Facts and Presumptions**

Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

*[Comment to Article 3.2: For example, MOC may establish an anti-doping rule violation under Article 2.2 (Use or Attempted Use of a Prohibited Substance or Prohibited Method) based on the Athlete's admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples.]*

**3.2.1** WADA-accredited laboratories are presumed to have conducted *Sample* analysis and custodial procedures in accordance with the *International Standard* for Laboratories. The *Athlete* or other *Person* may rebut this presumption by establishing that a departure from the *International Standard* occurred which could have reasonably caused the *Adverse Analytical Finding*.

If the *Athlete* or other *Person* rebuts the preceding presumption by showing that a departure from the *International Standard* occurred which could have reasonably caused the *Adverse Analytical Finding*, then the *MOC* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

*[Comment to Article 3.2.1: The burden is on the Athlete or other Person to establish, by a balance of probability, a departure from the International Standard that could reasonably have caused the Adverse Analytical Finding. If the Athlete or other Person does so, the burden shifts to MOC to prove to the comfortable*

*satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

**3.2.2** Departures from any other *International Standard* or other anti-doping rule or policy which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such results. If the *Athlete* or other *Person* establishes that a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused the *Adverse Analytical Finding* or other anti-doping rule violation occurred, then the *MOC* shall have the burden to establish that such a departure did not cause the *Adverse Analytical Finding* or the factual basis for the anti-doping rule violation.

**3.2.3** The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction which is not the subject of a pending appeal shall be irrebuttable evidence against the *Athlete* or other *Person* to whom the decision pertained of those facts unless the *Athlete* or other *Person* establishes that the decision violated principles of natural justice.

**3.2.4** The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation based on the *Athlete* or other *Person's* refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the tribunal) and to answer questions either from the tribunal or from the *Anti-Doping Organization* asserting the anti-doping rule violation.

*[Comment to Article 3.2.4: Drawing an adverse inference under these circumstances has been recognized in numerous CAS decisions.]*

## **ARTICLE 4 THE *PROHIBITED LIST***

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

These Anti-Doping Rules incorporate the *Prohibited List* which is published and revised by *WADA* as described in Article 4.1 of the *Code*. The *MOC* will make the current *Prohibited List* available to each *National Federation*, and each *National Federation* shall ensure that the current *Prohibited List* is available to its members and constituents.

*[Comment to Article 4.1: The Prohibited List will be revised and published on an expedited basis whenever the need arises. However, for the sake of predictability, a new Prohibited List will be published every year whether or not changes have been made. The Prohibited List in force is available on WADA's website at [www.wada-ama.org](http://www.wada-ama.org). The Prohibited List is an integral part of the International Convention against Doping in Sport..]*

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

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

Unless provided otherwise in the *Prohibited List* and/or a revision, the *Prohibited List* and revisions shall go into effect under these Anti-Doping Rules three months after publication of the *Prohibited List* by WADA without requiring any further action by the MOC.

*[Comment to Article 4.2.1: There will be one Prohibited List. The substances which are prohibited at all times would include masking agents and those substances which, when Used in training, may have long term performance enhancing effects such as anabolics. All substances and methods on the Prohibited List are prohibited In-Competition. Out-of-Competition Use (Article 2.2) of a substance which is only prohibited In-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the substance or its Metabolites is reported for a Sample collected In-Competition (Article 2.1).*

*There will be only one document called the "Prohibited List." WADA may add additional substances or methods to the Prohibited List for particular sports (e.g. the inclusion of beta-blockers for shooting) but this will also be reflected on the single Prohibited List. A particular sport is not permitted to seek exemption from the basic list of Prohibited Substances (e.g. eliminating anabolics from the Prohibited List for "mind sports"). The premise of this decision is that there are certain basic doping agents which anyone who chooses to call himself or herself an Athlete should not take.]*

### **4.2.2 Specified Substances**

For purposes of the application of Article 10 (Sanctions on Individuals), all *Prohibited Substances* shall be "Specified Substances" except (a) substances in the classes of anabolic agents and hormones; and (b) those stimulants and hormone antagonists and modulators so identified on the *Prohibited List*. *Prohibited Methods* shall not be Specified Substances.

*[Comment to Article 4.2.2: In drafting the Code there was considerable debate among stakeholders over the appropriate balance between inflexible sanctions which promote harmonization in the application of the rules and more flexible sanctions which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the Code. After three years experience with the Code, the strong consensus of stakeholders is that while the occurrence of an anti-doping rule violation under Articles 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers) and 2.2 (Use of a Prohibited Substance or Prohibited Method) should still be based on the principle of strict liability, the Code sanctions should be made more flexible where the Athlete or other Person can clearly demonstrate that he or she did not intend to enhance sport performance. The change to Article 4.2 and related changes to Article 10 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 10.5 (Elimination or Reduction of Period of Ineligibility Based on Exceptional Circumstances) would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones, as well as the stimulants and the hormone antagonists and modulators so identified on the Prohibited List, or Prohibited Methods.]*

#### **4.2.3**      *New Classes of Prohibited Substances*

In the event WADA expands the *Prohibited List* by adding a new class of *Prohibited Substances* in accordance with Article 4.1 of the *Code*, WADA's Executive Committee shall determine whether any or all *Prohibited Substances* within the new class of *Prohibited Substances* shall be considered Specified Substances under Article 4.2.2.

### **4.3 Criteria for Including Substances and Methods on the Prohibited List**

As provided in Article 4.3.3 of the *Code*, WADA's determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List* and the classification of substances into categories on the *Prohibited List* is final and shall not be subject to challenge by an *Athlete* or other *Person* based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.

*[Comment to Article 4.3: The question of whether a substance meets the criteria in Article 4.3 (Criteria for Including Substances and Methods on the Prohibited List) in a particular case cannot be raised as a defense to an anti-doping rule violation. For example, it cannot be argued that the Prohibited Substance detected would not have been performance enhancing in that particular sport.]*

Rather, doping occurs when a substance on the Prohibited List is found in an Athlete's Sample. Similarly, it cannot be argued that a substance listed in the class of anabolic agents does not belong in that class.]

## 4.4 Therapeutic Use

**4.4.1** Athletes with a documented medical condition requiring the use of a *Prohibited Substance* or a *Prohibited Method* must first obtain a TUE. The presence of a *Prohibited Substance* or its *Metabolites* or *Markers* (Article 2.1), *Use* or *Attempted Use* of a *Prohibited Substance* or a *Prohibited Method* (Article 2.2), *Possession of Prohibited Substances* or *Prohibited Methods* (Article 2.6) or administration of a *Prohibited Substance* or *Prohibited Method* (Article 2.8) consistent with the provisions of an applicable TUE issued pursuant to the *International Standard for TUEs* shall not be considered an anti-doping rule violation.

In addition, for all athletes the use of inhaled Beta-2 Agonists should be declared through ADAMS when reasonably feasible as soon as the product is used and must as well be declared on the Doping Control Form at the time of testing (Art. 7.13 *International Standard for TUEs*). While not prohibited, the use of Glucocorticosteroids by non systemic routes namely, intraarticular, periarticular, peritendinous, epidural, intradermal injections and inhaled route requires the filling of a Declaration of Use.

**4.4.2** Athletes included by the MOC in its *Registered Testing Pool* and other Athletes participating in any *National Event* must obtain a TUE granted or recognized by the MOC. The application for a TUE must be made as soon as possible (in the case of an Athlete in the *Registered Testing Pool*, this would be when he/she is first notified of his/her inclusion in the pool) and in any event (save in emergency situations) no later than 30 days before the Athlete's participation in the *Event*.

**4.4.3** TUE's granted by the MOC shall be reported to the Athlete's *National Federation* and to WADA. Other Athletes subject to *Testing* who need to use a *Prohibited Substance* or a *Prohibited Method* for therapeutic reasons must obtain a TUE from their *National Anti-Doping Organization* or other body designated by their *National Federation*, as required under the rules of the *National Anti-Doping Organization/other body*. *National Federations* shall promptly report any such TUE's to the MOC and WADA.

**4.4.4** The MOC Executive shall appoint a panel of physicians to consider requests for TUEs (the "TUE Panel"). Upon the MOC's receipt of a TUE request, the Chair of the TUE Panel shall appoint

one or more members of the *TUE* Panel (which may include the Chair) to consider such request. The *TUE* Panel member(s) so designated shall promptly evaluate such request in accordance with the *International Standard for TUEs* and render a decision on such request, which shall be the final decision of the *MOC*.

**4.4.5** *WADA*, at the request of an *Athlete* or on its own initiation, may review the granting or denial of any *TUE* by the *MOC*. If *WADA* determines that the granting or denial of a *TUE* did not comply with the *International Standard for TUEs* in force at the time then *WADA* may reverse that decision. Decisions on *TUEs* are subject to further appeal as provided in Article 13.

## **ARTICLE 5 TESTING**

### **5.1 Authority to Test**

All *Athletes* under the jurisdiction of a *National Federation* shall be subject to *Testing* by the *Athlete's National Federation*, the *Athlete's International Federation*, the *MOC* and any *Anti-Doping Organization* responsible for *Testing* at a *Competition* or *Event* in which they participate. All *Athletes* under the jurisdiction of a *National Federation*, including *Athletes* serving a period of ineligibility or a *Provisional Suspension*, shall be subject to *Testing* at any time or place, with or without advance notice, *In-Competition* or *Out-of-Competition* by *WADA*, the *Athlete's National Federation*, the *Athlete's International Federation*, the *MOC*, the *National Anti-Doping Organization* of any country where the *Athlete* is national, resident, license-holder or member of sport organizations, the *IOC* during the *Olympic Games*, and the *IPC* during the *Paralympic Games*. *Target Testing* will be made a priority.

All *Athletes* must comply with any request for *Testing* by any *Anti-Doping Organization* with *Testing* jurisdiction.

### **5.2 Responsibility for the MOC Testing**

In coordination with other *Anti-Doping Organizations* conducting *Testing* on the same *Athletes*, and consistent with the *International Standard for Testing*, the *MOC* shall:

**5.2.1** Plan and conduct an effective number of *In-Competition* and *Out-of-Competition* tests on *Athletes* over whom it has jurisdiction, including but not limited to *Athletes* in its *Registered Testing Pool*.

**5.2.2** Except in exceptional circumstances, all *Out-of-Competition Testing* shall be *No Advance Notice*.

**5.2.3** Make *Target Testing* a priority.

**5.2.4** Conduct *Testing* on *Athletes* serving a period of *Ineligibility* or a *Provisional Suspension*.

### **5.3 Testing Standards**

*Testing* conducted by the *MOC* and its *National Federations* shall be in substantial conformity with the *International Standard for Testing* in force at the time of *Testing*.

**5.3.1** Blood (or other non-urine) *Samples* may be used to detect *Prohibited Substances* or *Prohibited Methods*, for screening procedure purposes, or for longitudinal hematological profiling (“the passport”).

### **5.4 Coordination of Testing**

#### **5.4.1** *Event Testing*

The collection of *Samples* for *Doping Control* shall take place at both *International Events* and *National Events*. However, except as otherwise provided below, only a single organization will be responsible for initiating and directing *Testing* during the *Event Period*. At *International Events*, the collection of *Doping Control Samples* shall be initiated and directed by the international organization which is the ruling body for the *Event* (e.g., the International Olympic Committee for the Olympic Games, and International Federation for a World Championship, the Pan-American Sports Organization for the Pan American Games, etc.). At *National Events*, the collection of *Doping Control Samples* shall be initiated and directed by NADOs.

**5.4.1.1** If *MOC* nevertheless desires to conduct additional *Testing* of *Athletes* at an *Event* for which it is not responsible for initiating and directing *Testing* during the *Event Period*, *MOC* shall first confer with the ruling body of the *Event* to obtain permission to conduct, and to coordinate, any additional *Testing*. If *MOC* is not satisfied with the response from the ruling body of the *Event*, *MOC* may ask *WADA* for permission to conduct such additional *Testing* and to determine how to coordinate such additional *Testing*.

#### **5.4.2** *Out-of-Competition Testing*

*Out-of-Competition Testing* shall be initiated and directed by both international and national organizations. *Out-of-Competition Testing* may be initiated and directed by: (a) *WADA*; (b) the International Olympic Committee or International Paralympic Committee in connection with the Olympic Games or Paralympic Games; (c) *MOC* or *National Federations*; or (d) any other *Anti-Doping Organization* that has *Testing* jurisdiction over the *Athlete* as provided in Article 5.1 (Authority to Test). *Out-of-Competition Testing* shall be coordinated through *ADAMS* where reasonably feasible in order to maximize the effectiveness of the combined *Testing* effort and to avoid unnecessary repetitive *Testing* of individual *Athletes*.

## **5.5 Athlete Whereabouts Requirements**

**5.5.1** The *MOC* shall identify a *Registered Testing Pool* of those *Athletes* who are required to comply with the whereabouts requirements of the *International Standard for Testing*, and shall publish the criteria for *Athletes* to be included in this *Registered Testing Pool* as well as a list of the *Athletes* meeting those criteria for the period in question. The *MOC* shall review and update as necessary its criteria for including *Athletes* in its Registered Testing Pool, and shall revise the membership of its *Registered Testing Pool* from time to time as appropriate in accordance with the set criteria. Each *Athlete* in the *Registered Testing Pool* (a) shall advise the *MOC* of his/her whereabouts on a quarterly basis, in the manner set out in Article 11.3 of the *International Standard for Testing*; (b) shall update that information as necessary, in accordance with Article 11.4.2 of the *International Standard for Testing*, so that it remains accurate and complete at all times;; and (c) shall make him/herself available for *Testing* at such whereabouts, in accordance with Article 11.4 of the *International Standard for Testing*.

**5.5.2** An *Athlete's* failure to advise the *MOC* of his/her whereabouts shall be deemed a Filing Failure for purposes of Article 2.4 where the conditions of Article 11.3.5 of the *International Standard for Testing* are met.

**5.5.3** An *Athlete's* failure to be available for *Testing* at his/her declared whereabouts shall be deemed a Missed Test for purposes of Article 2.4 where the conditions of Article 11.4.3 of the *International Standard for Testing* are met.

**5.5.4** Each *National Federation* shall also assist *MOC* in establishing a national level *Registered Testing Pool* of top level national *Athletes* to whom the whereabouts requirements of the *International Standard for Testing* shall also apply. Where those

*Athletes* are also in an International Federation's *Registered Testing Pool*, the International Federation and *MOC* will agree (with the assistance of *WADA* if required) on which of them will take responsibility for receiving whereabouts filings from the *Athlete* and sharing it with the other (and with other *Anti-Doping Organizations*) in accordance with section 5.5.5.

**5.5.5** Whereabouts information provided pursuant to Articles 5.5.1 and 5.5.4 shall be shared with *WADA* and other *Anti-Doping Organizations* having jurisdiction to test an *Athlete* in accordance with Articles 11.7.1(d) and 11.7.3(d) of the *International Standard for Testing*, including the conditions that it be maintained in strict confidence at all times, used exclusively for purposes of planning, coordinating or conducting *Testing* and destroyed after it is no longer relevant for these purposes.

## **5.6 Retirement and Return to Competition**

**5.6.1** An *Athlete* who has been identified by the *MOC* for inclusion in the *MOC's Registered Testing Pool* shall continue to be subject to these Anti-Doping Rules, including the obligation to comply with the whereabouts requirements of the *International Standard for Testing*, unless and until the *Athlete* gives written notice to the *MOC* that he or she has retired or until he or she no longer satisfies the criteria for inclusion in the *MOC's Registered Testing Pool* and has been so informed by the *MOC*.

**5.6.2** An *Athlete* who has given notice of retirement to the *MOC* may not resume competing unless he or she notifies the *MOC* at least twelve months before he or she expects to return to competition and makes him/herself available for unannounced *Out-of-Competition Testing*, including (if requested) complying with the whereabouts requirements of the *International Standard for Testing*, at any time during the period before actual return to competition.

**5.6.3** *National Federations* may establish similar requirements for retirement and returning to competition for *Athletes* in their *Registered Testing Pool*.

## **5.7 Selection of Athletes to be Tested**

**5.7.1** At *National Events*, *MOC*, in coordination with *National Federations* (where feasible) shall determine the number of finishing placement tests, random tests and target tests to be performed.

**5.7.2** In addition to the selection procedures set forth in Article 5.7.1, at *National Events* *MOC*, in coordination with *National*

*Federations* (where feasible), may also select *Athletes* or teams for *Target Testing* so long as such *Target Testing* is not used for any purpose other than legitimate *Doping Control* purposes.

**5.7.3** *Athletes* shall be selected for *Out-of-Competition Testing* by the *MOC* and/or by *National Federations* through a process that substantially complies with the *International Standard for Testing*.

## **5.8 Independent Observer Program**

*National Federations* and the organizing committees for *National Federation Events* shall provide access to *Independent Observers* at *Events* as directed by the *MOC*.

## **ARTICLE 6 ANALYSIS OF SAMPLES**

*Doping Control Samples* collected under these Anti-Doping Rules shall be analyzed in accordance with the following principles:

### **6.1 Use of Approved Laboratories**

For purposes of Article 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*), the *MOC* or *National Federations* shall send *Doping Control Samples* for analysis only to *WADA*-accredited laboratories or as otherwise approved by *WADA*. The choice of the *WADA*-accredited laboratory (or other laboratory or method approved by *WADA*) used for the *Sample* analysis shall be determined exclusively by the *MOC*.

### **6.2 Purpose of Collection and Analysis of Samples**

*Samples* shall be analyzed to detect *Prohibited Substances* and *Prohibited Methods* identified on the *Prohibited List* and other substances as may be directed by *WADA* pursuant to the Monitoring Program described in Article 4.5 of the *Code* or to assist the *MOC* in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.

### **6.3 Research on Samples**

No *Sample* may be used for any purpose other than as described in Article 6.2 without the *Athlete's* written consent. *Samples* used (with the *Athlete's* consent) for purposes other than Article 6.2 shall have any means of identification removed such that they cannot be traced back

to a particular *Athlete*.

## **6.4 Standards for *Sample* Analysis and Reporting**

Laboratories shall analyze *Doping Control Samples* and report results in conformity with the *International Standard* for Laboratories.

## **6.5 Retesting *Samples***

A *Sample* may be reanalyzed for the purposes described in Article 6.2 at any time exclusively at the directive of *MOC* or *WADA*. The circumstances and conditions for retesting *Samples* shall conform to the requirements of the *International Standard* for Laboratories.

# **ARTICLE 7 RESULTS MANAGEMENT**

## **7.1 Results Management for Tests Initiated by *MOC***

Results management for tests initiated by *MOC* (including tests performed by *WADA* pursuant to agreement with *MOC*) shall proceed as set forth below:

**7.1.1** The results from all analyses must be sent to *MOC* in encoded form, in a report signed by an authorised representative of the laboratory. All communication must be conducted in confidentiality and in conformity with *ADAMS*, a database management tool developed by *WADA*. *ADAMS* is consistent with data privacy statutes and norms applicable to *WADA* and other organizations using it.

**7.1.2** Upon receipt of an *A Sample Adverse Analytical Finding*, *MOC* shall conduct a review to determine whether: (a) an applicable *TUE* has been granted or will be granted as provided in the *International Standard* for *TUEs*, or (b) there is any apparent departure from the *International Standard* for Testing or *International Standard* for Laboratories that caused the *Adverse Analytical Finding*.

**7.1.3** If the initial review of an *Adverse Analytical Finding* under Article 7.1.2 does not reveal an applicable *TUE* or entitlement to a *TUE* as provided in the *International Standard* for *TUEs*, or departure that caused the *Adverse Analytical Finding*, *MOC* shall promptly notify the *Athlete*, in the manner set out in Article 14.1.1, of: (a) the *Adverse Analytical Finding*; (b) the anti-doping rule violated; (c) the *Athlete's* right to promptly request the analysis of the *B Sample* or, failing such request, that the *B Sample* analysis may be deemed waived; (d) the

scheduled date, time and place for the B *Sample* analysis if the *Athlete* or *MOC* chooses to request an analysis of the B *Sample*; (e) the opportunity for the *Athlete* and/or the *Athlete's* representative to attend the B *Sample* opening and analysis within the time period specified in the *International Standard* for Laboratories if such analysis is requested; and (f) the *Athlete's* right to request copies of the A and B *Sample* laboratory documentation package which includes information as required by the *International Standard* for Laboratories. *MOC* shall also notify the *Athlete's* International Federation and *WADA*. If *MOC* decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it shall so notify the *Athlete*, the *Athlete's* International Federation and *WADA*.

**7.1.4** Where requested by the *Athlete* or *MOC*, arrangements shall be made for *Testing* the B *Sample* within the time period specified in the *International Standard* for Laboratories. An *Athlete* may accept the A *Sample* analytical results by waiving the requirement for B *Sample* analysis. *MOC* may nonetheless elect to proceed with the B *Sample* analysis.

**7.1.5** The *Athlete* and/or his representative shall be allowed to be present at the analysis of the B *Sample* within the time period specified in the *International Standard* for Laboratories. Also a representative of the *Athlete's National Federation* as well as a representative of *MOC* shall be allowed to be present.

**7.1.6** If the B *Sample* proves negative, then (unless *MOC* takes the case forward as an anti-doping rule violation under Article 2.2) the entire test shall be considered negative and the *Athlete*, his *National Federation*, and *MOC* shall be so informed.

**7.1.7** If a *Prohibited Substance* or the *Use of a Prohibited Method* is identified, the findings shall be reported to the *Athlete*, his *National Federation*, *MOC*, and *WADA*.

**7.1.8** *MOC* shall conduct any follow-up investigation into a possible anti-doping rule violation not covered by Articles 7.1.1 to 7.1.8. If it is satisfied that an anti-doping rule violation has occurred, *MOC* shall promptly give the *Athlete* or other *Person* subject to sanction notice of the anti-doping rule violated and the basis of the violation. *MOC* shall also notify the *Athlete's* International Federation and *WADA*.

## **7.2 Review of Atypical Findings**

**7.2.1** As provided in the *International Standards*, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously as *Atypical Findings* subject to further investigation.

**7.2.2** Upon receipt of an *A Sample Atypical Finding*, MOC shall conduct a review to determine whether: (a) an applicable *TUE* has been granted, or (b) there is any apparent departure from the *International Standard for Testing* or *International Standard for Laboratories* that caused the *Atypical Finding*.

**7.2.3** If the initial review of an *Atypical Finding* under Article 7.2.2 reveals an applicable *TUE* or departure from the *International Standard for Testing* or the *International Standard for Laboratories* that caused the *Atypical Finding*, the entire test shall be considered negative and the *Athlete*, the *Athlete's* International Federation, and WADA shall be so informed.

**7.2.4** If the initial review of an *Atypical Finding* under Article 7.2.2 does not reveal an applicable *TUE* or departure that caused the *Atypical Finding*, MOC shall conduct the required investigation. After the investigation is completed, the *Athlete*, WADA and the *Athlete's* International Federation shall be notified whether or not the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding* in accordance with Article 7.14.

**7.2.5** MOC will not provide notice of an *Atypical Finding* until it has completed its investigation and has decided whether it will bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless one of the following circumstances exists:

(a) If MOC determines the *B Sample* should be analyzed prior to the conclusion of its follow-up investigation, it may conduct the *B Sample* analysis after notifying the *Athlete*, with such notice to include a description of the *Atypical Finding* and the information described in Article 7.1.3(b) to (f).

(b) If MOC receives a request, either from a *Major Event Organization* shortly before one of its *International Events* or a request from a sport organization responsible for meeting an imminent deadline for selecting team members for an *International Event*, to disclose whether any *Athlete* identified listed by the *Major Event Organization* or

sport organization has a pending *Atypical Finding*, MOC shall so identify any such *Athlete* after first providing notice of the *Atypical Finding* to the *Athlete*.

### **7.3 Content of Notification to the Athlete's International Federation and WADA**

Notification to the *Athlete's* International Federation and WADA, pursuant to this Article 7, shall include: the *Athlete's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection and the analytical result reported by the laboratory.

### **7.4 Results Management for an anti-doping rule violation involving an Athlete who is not under the jurisdiction of MOC**

Results management and the conduct of hearings for an anti-doping rule violation arising from a test by, or discovered by, MOC involving an *Athlete* who is not a national, resident, license-holder or member of a sport organization of Montenegro shall be administered as directed by the rules of the applicable International Federation.

### **7.5 Results Management for Whereabouts Violations**

**7.5.1** Results management in respect of an apparent *Filing Failure* by an *Athlete* in MOC's *Registered Testing Pool* shall be conducted by MOC in accordance with Article 11.6.2 of the *International Standard for Testing* (unless it has been agreed in accordance with Article 5.5.4 that the International Federation shall take such responsibility).

**7.5.2** Results management in respect of an apparent missed test by an *Athlete* in MOC's *Registered Testing Pool* as a result of an attempt to test the *Athlete* by or on behalf of MOC shall be conducted by MOC in accordance with Article 11.6.3 of the *International Standard for Testing*. Results management in respect of an apparent Missed Test by such *Athlete* as a result of an attempt to test the *Athlete* by or on behalf of another *Anti-Doping Organization* shall be conducted by that other *Anti-Doping Organization* in accordance with Article 11.7.6(c) of the *International Standard for Testing*.

**7.5.3** Where, in any eighteen-month period, an *Athlete* in *MOC's Registered Testing Pool* is declared to have three Filing Failures, or three Missed Tests, or any combination of Filing Failures or Missed Tests adding up to three in total, whether under these Anti-Doping Rules or under the rules of any other *Anti-Doping Organization*, *MOC* shall bring them forward as an apparent anti-doping rule violation.

## **7.6 Provisional Suspensions**

**7.6.1** If analysis of an *A Sample* has resulted in an *Adverse Analytical Finding* for a *Prohibited Substance* that is not a Specified Substance, and a review in accordance with Article 7.1.2 does not reveal an applicable *TUE* or departure from the *International Standard for Testing* or the *International Standard for Laboratories* that caused the *Adverse Analytical Finding*, a *Provisional Suspension* shall be imposed promptly after the review and notification described in Article 7.1.

**7.6.2** In any case not covered by Article 7.6.1 where *MOC* decides to take the matter forward as an apparent anti-doping rule violation in accordance with the foregoing provisions of this Article 7, a *Provisional Suspension* may be imposed after the review and notification described in Article 7.1, but prior to the analysis of the *Athlete's B Sample* or the final hearing as described in Article 8 (Disciplinary Procedure).

**7.6.3** However, a *Provisional Suspension* may not be imposed, whether pursuant to Article 7.6.1 or Article 7.6.2, unless the *Athlete* or other *Persons* is given either: (a) an opportunity for a *Provisional Hearing* either before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*; or (b) an opportunity for an expedited hearing in accordance with Article 8 (Disciplinary Procedure) on a timely basis after imposition of a *Provisional Suspension*.

**7.6.4** If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and a subsequent *B Sample* analysis (if requested by the *Athlete* or *Anti-Doping Organization*) does not confirm the *A Sample* analysis, then the *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of Article 2.1 of the *Code* (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*). In circumstances where the *Athlete* (or the *Athlete's* team) has been removed from a *Competition* based on a violation of Article 2.1 and the subsequent *B Sample* analysis does not confirm the *A Sample* finding, if, without otherwise affecting the *Competition*, it is still

possible for the *Athlete* or team to be reinserted, the *Athlete* or team may continue to take part in the *Competition*.

## **7.7 Retirement from Sport**

If an *Athlete* or other *Person* retires while a results management process is underway, *MOC* retains jurisdiction to complete its results management process. If an *Athlete* or other *Person* retires before any results management process has begun and *MOC* would have had results management jurisdiction over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, *MOC* has jurisdiction to conduct results management.

## **ARTICLE 8 DISCIPLINARY PROCEDURE**

### **8.1 MOC Hearing Process**

**8.1.1** When it appears, following the Results Management process performed by *MOC* in accordance with Article 7, that these Anti-Doping Rules have been violated then the case shall be assigned to the *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel*, for adjudication.

**8.1.2** Hearings pursuant to this Article shall be completed expeditiously. Unless otherwise agreed between the parties, the *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel*, shall;

**8.1.2.1** commence the hearing within fourteen (14) days of the notification date;

**8.1.2.2** issue a written decision within twenty (20) days of the notification date; and

**8.1.2.3** issue written reasons for the decision within thirty (30) days of the notification date.

**8.1.3** Hearings held in connection with *Events* may be conducted on an expedited basis. If the *Athlete* has been imposed a *Provisional Suspension* as per Article 7.6, the *Athlete* has the right to request that the hearing be conducted on an expedited basis.

**8.1.4** The International Federation, and/or the *National Federation* concerned, if not a party to the proceedings, the *National Olympic Committee*, if not a party to this proceeding, and *WADA* may attend the hearing as observers.

**8.1.5** *MOC* shall keep the relevant International Federation, *WADA*, (and the *National Olympic Committee* and *National Federation* if not parties to the proceeding) fully apprised as to the status of pending cases and the result of all hearings.

**8.1.6** An *Athlete* or other *Person* may forego a hearing by acknowledging the Anti-Doping Rule violation and accepting *Consequences* consistent with Articles 9 and 10 as proposed by *MOC*. The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge *MOC's* assertion that an anti-doping rule violation has occurred within 30 days. Where no hearing occurs, *MOC* shall submit to the *Persons* described in Article 13.2.3 a reasoned decision explaining the action taken.

## **8.2 Jurisdiction of the *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel***

**8.2.1** The *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel*, has the power to hear and determine all issues arising from any matter which is referred to it pursuant to these Anti-Doping Rules. In particular, the *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel*, has the power to determine the *Consequences* of Anti-Doping Rule Violations to be imposed pursuant to these Anti-Doping Rules.

**8.2.2** No final decision of, or *Consequences* of Anti-Doping Rule Violations imposed by, the *MOC* Disciplinary panel, the *Montenegro Anti-Doping Disciplinary Panel*, shall be quashed, varied or held invalid, by any court, arbitrator, tribunal or other hearing body other than the Montenegrin *Anti-Doping Appeal Panel* or *CAS* for any reason, including for reason of any defect, irregularity, omission or departure from the procedures set out in these Anti-Doping Rules, provided there has been no miscarriage of justice.

## **8.3 Appointment of the *MOC* Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel***

**8.3.1** The *National Olympic Committee* shall appoint the independent

Montenegrin *Anti-Doping Disciplinary Panel* which will comprise of the following:

- a) A Chair and two (2) Vice-Chairs, each of whom shall be legal practitioners of not less than five (5) years standing; and
- b) Three (3) medical practitioners of not less than five (5) years standing; and
- c) Three (3) additional members; each of whom shall be, or has previously been, a sports administrator or an *Athlete*,

all of whom will be appointed on the basis that they are in a position to hear the cases fairly, impartially and independently.

**8.3.2** Each panel member shall be appointed for a term of four (4) years.

**8.3.3** The Chair of the *MOC* Disciplinary Panel, the Montenegro Anti-Doping Disciplinary Panel, or in his/her absence, a Vice-Chair, shall appoint three (3) members from the panel to hear and determine each case. Each such hearing panel shall comprise the Chair or a Vice-Chair as chair of the hearing panel, one medical practitioner member and one sports administrator or *Athlete* member.

**8.3.4** The appointed members shall have had no prior involvement with the case. Each member, upon appointment, shall disclose to the Chair any circumstances likely to affect impartiality with respect to any of the parties.

**8.3.5** If a panel member dies or resigns, the *National Olympic Committee* may appoint an independent *Person* to be a panel member to fill the resultant vacancy. The *Person* so appointed shall be appointed for the remainder of the term of the member who occasioned the vacancy.

## **8.4 Proceedings of the Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel***

**8.4.1** Subject to the provisions of these Anti-Doping Rules, the *MOC*

Disciplinary Panel, *the Montenegro Anti-Doping Disciplinary Panel*, and its hearing panels shall have the power to regulate their procedures.

**8.4.2** Hearings of the MOC Disciplinary Panel, *the Montenegro Anti-Doping Disciplinary Panel*, shall be open to the public, unless the MOC Disciplinary Panel, *the Montenegro Anti-Doping Disciplinary Panel*, determines that there are special circumstances warranting otherwise.

**8.4.3** The MOC shall present the case against the *Person* before the MOC Disciplinary Panel, *the Montenegro Anti-Doping Disciplinary Panel*, and, where requested by the MOC, the *National Sports Federation* of the *Person* concerned shall assist the MOC.

**8.4.4** The *Person* against whom the case is brought has the right to respond to the asserted anti-doping rule violation and resulting *Consequences*.

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

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

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

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

**8.4.9** Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The hearing panel may receive evidence, including hearsay, as it thinks fit and shall be entitled to attach such weight to that evidence as it deems appropriate.

**8.4.10** The hearing panel may postpone or adjourn a hearing.

**8.4.11** The hearing panel, at the request of one of the parties to the

proceedings or on its own initiative, may require one or more parties to the proceedings, prior to the hearing, to supply it and/or the other parties to the proceedings with further particulars of the case to be presented by that party at the hearing, including what witnesses they intend to call and that party shall comply with that direction.

**8.4.12** Hearings may be recorded and the *MOC* shall own and retain any recording.

## **8.5 Decisions of the Disciplinary Panel, the *Montenegro Anti-Doping Disciplinary Panel***

**8.5.1** The deliberations of the hearing panel on its decision shall be private.

**8.5.2** Any minority or dissenting decisions shall be noted in the written reasons. In the event of a majority decision, this shall be the decision of the hearing panel.

**8.5.3** The decision of the hearing panel shall be written, dated and signed. In order to expedite the finalization of the hearing, the decision may be handed down without written reasons in accordance with the time schedule outlined in Article 8.1.2. In any case in which the period of *Ineligibility* is eliminated under Article 10.5.1 (*No Fault or Negligence*) or reduced under Article 10.5.2 (*No Significant Fault or Negligence*) the decision shall explain the basis for the elimination or reduction.

**8.5.4** The decision of the hearing panel shall be advised to the parties to the proceedings, *WADA*, the relevant International Federation (and to the *National Olympic Committee* and *National Sports Federation* if not a party to the proceedings) as soon as practicable after the conclusion of the hearing.

**8.5.5** Decisions of the *MOC* Disciplinary Panel, *the Montenegro Anti-Doping Disciplinary Panel*, may be appealed as provided in Article 13 (Appeals).

## **8.6 Principles for a Fair Hearing**

All hearings pursuant to either Article 8.1 or 8.2 shall respect the following principles:

- a timely hearing;
- fair and impartial hearing panel;
- the right to be represented by counsel at the *Person's* own expense;
- the right to be informed in a fair and timely manner of the asserted anti-doping rule violation;
- the right to respond to the asserted anti-doping rule violation and resulting *Consequences*;
- the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing panel's discretion to accept testimony by telephone or written submission);
- the *Person's* right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost of the interpreter; and
- a timely, written, reasoned decision, specifically including an explanation of the reason(s) for any period of *Ineligibility*.

## **ARTICLE 9 AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS**

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

*[Comment to Article 9: When an Athlete wins a gold medal with a Prohibited Substance in his or her system, this is unfair to the other Athletes in that Competition regardless of whether the gold medalist was at fault in any way. Only a "clean" Athlete should be allowed to benefit from his or her competitive results.*

*For Team Sports, see Article 11 (Consequences to Teams).*

*In sports which are not Team Sports but where awards are given to teams, Disqualification or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the International Federation.]*

## **ARTICLE 10 SANCTIONS ON INDIVIDUALS**

## **10.1 Disqualification of Results in an Event during which an Anti-Doping Rule Violation Occurs**

An *anti-doping rule* violation occurring during or in connection with an *Event* may, upon the decision of the ruling body of the *Event*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Event* with all consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1.

*[Comment to Article 10.1: Whereas Article 9 (Automatic Disqualification of Individual Results) Disqualifies the result in a single Competition in which the Athlete tested positive, this Article may lead to Disqualification of all results in all races during the Event. Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the severity of the Athlete's anti-doping rule violation and whether the Athlete tested negative in the other Competitions.]*

**10.1.1** If the *Athlete* establishes that he or she bears *No Fault or Negligence* for the violation, the *Athlete's* individual results in the other *Competitions* shall not be *Disqualified* unless the *Athlete's* results in *Competitions* other than the *Competition* in which the anti-doping rule violation occurred were likely to have been affected by the *Athlete's* anti-doping rule violation.

## **10.2 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods**

The period of *Ineligibility* imposed for a violation of Article 2.1 (Presence of *Prohibited Substance* or its *Metabolites* or *Markers*), Article 2.2 (*Use or Attempted Use* of *Prohibited Substance* or *Prohibited Method*) or Article 2.6 (*Possession of Prohibited Substances and Prohibited Methods*) shall be as follows, unless the conditions for eliminating or reducing the period of *Ineligibility*, as provided in Articles 10.4 and 10.5, or the conditions for increasing the period of *Ineligibility*, as provided in Article 10.6, are met:

First violation: Two (2) years' *Ineligibility*.

*[Comment to Article 10.2: Harmonization of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonization means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonization of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are*

*professionals making a sizable income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete's career is short (e.g., artistic gymnastics) a two year Disqualification has a much more significant effect on the Athlete than in sports where careers are traditionally much longer (e.g., equestrian and shooting); in Individual Sports, the Athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favor of harmonization is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organizations to be more lenient with dopers. The lack of harmonization of sanctions has also frequently been the source of jurisdictional conflicts between IFs and National Anti-Doping Organizations.]*

### **10.3 Ineligibility for Other Anti-Doping Rule Violations**

The period of *Ineligibility* for violations of these Anti-Doping Rules other than as provided in Article 10.2 shall be as follows:

**10.3.1** For violations of Article 2.3 (Refusing or Failing to Submit to *Sample* collection) or Article 2.5 (*Tampering with Doping Control*), the *Ineligibility* period shall be two (2) years unless the conditions provided in Article 10.5, or the conditions provided in Article 10.6, are met.

**10.3.2** For violations of Article 2.7 (*Trafficking*) or Article 2.8 (Administration or *Attempted Administration of Prohibited Substance or Prohibited Method*), the period of *Ineligibility* imposed shall be a minimum of four (4) years up to lifetime *Ineligibility* unless the conditions provided in Article 10.5 are met. An anti-doping rule violation involving a *Minor* shall be considered a particularly serious violation, and, if committed by *Athlete Support Personnel* for violations other than Specified Substances referenced in Article 4.2.2 shall result in lifetime *Ineligibility* for *Athlete Support Personnel*. In addition, significant violations of Articles 2.7 or 2.8 which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

*[Comment to Article 10.3.2: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organizations is generally limited to Ineligibility for credentials, membership and other sport benefits,*

*reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]*

**10.3.3** For violations of Article 2.4 (Whereabouts Filing Failures and/or Missed Tests), the period of *Ineligibility* shall be at a minimum one (1) year and at a maximum two (2) years based on the *Athlete's* degree of fault.

*[Comment to Article 10.3.3: The sanction under Article 10.3.3 shall be two years where all three filing failures or missed tests are inexcusable. Otherwise, the sanction shall be assessed in the range of two years to one year, based on the circumstances of the case.]*

#### **10.4 Elimination or Reduction of the Period of *Ineligibility* for Specified Substances under Specific Circumstances**

Where an *Athlete* or other *Person* can establish how a Specified Substance entered his or her body or came into his or her *Possession* and that such Specified Substance was not intended to enhance the *Athlete's* sport performance or mask the *Use* of a performance-enhancing substance, the period of *Ineligibility* found in Article 10.2 shall be replaced with the following:

First violation: At a minimum, a reprimand and no period of *Ineligibility* from future *Events*, and at a maximum, two (2) years of *Ineligibility*.

To justify any elimination or reduction, the *Athlete* or other *Person* must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of intent to enhance sport performance or mask the *Use* of a performance enhancing substance. The *Athlete's* or other *Person's* degree of fault shall be the criterion considered in assessing any reduction of the period of *Ineligibility*.

*[Comment to Article 10.4: Specified Substances as now defined in Article 4.2.2 are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a Specified Substance could be very effective to an Athlete in competition); for that reason, an Athlete who does not meet the criteria under this Article would receive a two-year period of Ineligibility and could receive up to a four-year period of Ineligibility under Article 10.6. However, there is a greater likelihood that Specified*

*Substances, as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation.*

*This Article applies only in those cases where the hearing panel is comfortably satisfied by the objective circumstances of the case that the Athlete in taking or Possessing a Prohibited Substance did not intend to enhance his or her sport performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the Specified Substance or the timing of its ingestion would not have been beneficial to the Athlete; the Athlete's open Use or disclosure of his or her Use of the Specified Substance; and a contemporaneous medical records file substantiating the non-sport-related prescription for the Specified Substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Athlete to prove lack of intent to enhance sport performance.*

*While the absence of intent to enhance sport performance must be established to the comfortable satisfaction of the hearing panel, the Athlete may establish how the Specified Substance entered the body by a balance of probability.*

*In assessing the Athlete's or other Person's degree of fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article. It is anticipated that the period of Ineligibility will be eliminated entirely in only the most exceptional cases.]*

## **10.5 Elimination or Reduction of Period of *Ineligibility* Based on Exceptional Circumstances**

### **10.5.1**     *No Fault or Negligence*

If an *Athlete* establishes in an individual case that he or she bears *No Fault or Negligence*, the otherwise applicable period of *Ineligibility* shall be eliminated. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample* in violation of Article 2.1 (Presence of *Prohibited Substance*), the *Athlete* must also establish how the *Prohibited Substance* entered his or her system in order to have the period of *Ineligibility* eliminated. In the event this Article is applied and the period of *Ineligibility* otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of *Ineligibility* for multiple violations under Article 10.7.

## **10.5.2**     *No Significant Fault or Negligence*

If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Significant Fault or Negligence*, then the otherwise applicable period of *Ineligibility* may be reduced, but the reduced period of *Ineligibility* may not be less than one-half of the period of *Ineligibility* otherwise applicable. If the otherwise applicable period of *Ineligibility* is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a *Prohibited Substance* or its *Markers* or *Metabolites* is detected in an *Athlete's Sample* in violation of Article 2.1 (Presence of a *Prohibited Substance* or its *Metabolites* or *Markers*), the *Athlete* must also establish how the *Prohibited Substance* entered his or her system in order to have the period of *Ineligibility* reduced.

*[Comment to Articles 10.5.1 and 10.5.2: These Anti-Doping Rules provide for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organizations that argue for a much narrower exception, or none at all, and those that would reduce a two year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. Article 10.5.2 may be applied to any anti-doping rule violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.]*

*Articles 10.5.1 and 10.5.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.*

*To illustrate the operation of Article 10.5.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (Article 2.1.1) and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Athlete's personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete's food or drink by a spouse, coach or other Person within the Athlete's circle of associates (Athletes are responsible for what they*

*ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.)*

*For purposes of assessing the Athlete's or other Person's fault under Articles 10.5.1 and 10.5.2, the evidence considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behavior. Thus, for example the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article.*

*While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete's or other Person's fault under Article 10.5.2, as well as Articles 10.3.3, 10.4 and 10.5.1.*

*Article 10.5.2 should not be applied in cases where Articles 10.3.3 or 10.4 apply, as those Articles already take into consideration the Athlete or other Person's degree of fault for purposes of establishing the applicable period of Ineligibility.]*

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

*MOC may, prior to a final appellate decision under Article 13 or the expiration of the time to appeal, suspend a part of the period of Ineligibility imposed in an individual case where the Athlete or other Person has provided Substantial Assistance to an Anti-Doping Organization, criminal authority or professional disciplinary body which results in the Anti-Doping Organization discovering or establishing an anti-doping rule violation by another Person or which results in a criminal or disciplinary body discovering or establishing a criminal offense or the breach of professional rules by another Person. After a final appellate decision under Article 13 or the expiration of time to appeal, MOC may only suspend a part of the otherwise applicable period of Ineligibility with the approval of the applicable International Federation and WADA. The extent to which the otherwise applicable period of Ineligibility may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the Athlete or other Person and the significance of the Substantial Assistance provided by the Athlete or other Person to the effort to eliminate*

doping in sport. No more than three-quarters of the otherwise applicable period of *Ineligibility* may be suspended. If the otherwise applicable period of *Ineligibility* is a lifetime, the non-suspended period under this Article must be no less than eight (8) years. If the MOC suspends any part of the otherwise applicable period of *Ineligibility* under this Article, it shall promptly provide a written justification for its decision to each *Anti-Doping Organization* having a right to appeal the decision. If MOC subsequently reinstates any part of the suspended period of *Ineligibility* because the *Athlete* or other *Person* has failed to provide the *Substantial Assistance* which was anticipated, the *Athlete* or other *Person* may appeal the reinstatement pursuant to Article 13.2.

*[Comment to Article 10.5.3: The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport.]*

*Factors to be considered in assessing the importance of the Substantial Assistance would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving Trafficking under Article 2.7 or administration under Article 2.8 is involved and whether the violation involved a substance or method which is not readily detectable in Testing. The maximum suspension of the Ineligibility period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit which the Person providing Substantial Assistance may be likely to still enjoy. As a general matter, the earlier in the results management process the Substantial Assistance is provided, the greater the percentage of the otherwise applicable period of Ineligibility may be suspended.*

*If the Athlete or other Person who is asserted to have committed an anti-doping rule violation claims entitlement to a suspended period of Ineligibility under this Article in connection with the Athlete or other Person's waiver of a hearing under Article 8.1.6, MOC shall determine whether a suspension of a portion of the period of Ineligibility is appropriate under this Article. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility before the conclusion of a hearing under Article 8 (Disciplinary Proceeding) on the anti-doping rule violation, the hearing panel shall determine whether a suspension of a portion of the otherwise applicable period of Ineligibility is appropriate under this Article at the same time the hearing panel decides whether the Athlete or other Person has committed an anti-doping rule violation. If a portion of the period of Ineligibility is suspended, the decision shall explain the basis for concluding the information provided was credible and was important to discovering or proving the anti-doping rule violation or other offense. If the Athlete or other Person claims entitlement to a suspended period of Ineligibility after a final decision finding an anti-doping rule violation has been rendered and is not subject to appeal under Article 13 (Appeals), but the Athlete or other Person is still serving the period of Ineligibility, the Athlete or other Person may apply to MOC to consider a suspension in the*

*period of Ineligibility under this Article. Any such suspension of the otherwise applicable period of Ineligibility shall require the approval of WADA and the relevant International Federation. If any condition upon which the suspension of a period of Ineligibility is based is not fulfilled, MOC shall reinstate the period of Ineligibility which would otherwise be applicable. Decisions rendered by MOC under this Article may be appealed pursuant to Article 13.2.*

*This is the only circumstance under these Anti-Doping Rules where the suspension of an otherwise applicable period of Ineligibility is authorized.]*

**10.5.4** Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence

Where an *Athlete* or other *Person* voluntarily admits the commission of an anti-doping rule violation before having received notice of a *Sample* collection which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than Article 2.1, before receiving first notice of the admitted violation pursuant to Article 7) and that admission is the only reliable evidence of the violation at the time of admission, then the period of *Ineligibility* may be reduced, but not below one-half of the period of *Ineligibility* otherwise applicable.

*[Comment to Article 10.5.4: This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organization is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught.]*

**10.5.5** Where an *Athlete* or Other *Person* Establishes Entitlement to Reduction in Sanction under More than One Provision of this Article

Before applying any reduction or suspension under Articles 10.5.2, 10.5.3 or 10.5.4, the otherwise applicable period of *Ineligibility* shall be determined in accordance with Articles 10.2, 10.3, 10.4 and 10.6. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under two or more of Articles 10.5.2, 10.5.3 or 10.5.4, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

*[Comment to Article 10.5.5: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (Article 10.2, Article 10.3, Article 10.4 or Article 10.6) applies to the particular anti-doping rule violation. In a second step, the hearing panel establishes whether there is a basis for suspension, elimination or reduction of the sanction (Articles 10.5.1 through 10.5.4). Note, however, not all grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Article 10.5.2 does not apply in cases involving Articles 10.3.3 or 10.4, since the hearing panel, under Articles 10.3.3 and 10.4, will already have determined the period of Ineligibility based on the Athlete's or other Person's degree of fault. In a third step, the hearing panel determines under Article 10.5.5 whether the Athlete or other Person is entitled to elimination, reduction or suspension under more than one provision of Article 10.5. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 10.9. The following four examples demonstrate the proper sequence of analysis:*

*Example 1.*

*Facts:* *An Adverse Analytical Finding involves the presence of an anabolic steroid; the Athlete promptly admits the anti-doping rule violation as asserted; the Athlete establishes No Significant Fault (Article 10.5.2); and the Athlete provides Substantial Assistance (Article 10.5.3).*

*Application of Article 10:*

- 1. The basic sanction would be two years under Article 10.2. (Aggravating Circumstances (Article 10.6) would not be considered because the Athlete promptly admitted the violation. Article 10.4 would not apply because a steroid is not a Specified Substance.)*
- 2. Based on No Significant Fault alone, the sanction could be reduced up to one-half of the two years. Based on Substantial Assistance alone, the sanction could be reduced up to three-quarters of the two years.*
- 3. Under Article 10.5.5, in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three-quarters of the two years. Thus, the minimum sanction would be a six-month period of Ineligibility.*
- 4. Under Article 10.9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the Athlete would have to serve at least one-half of the Ineligibility period (minimum three months) after the date of the hearing decision.*

### Example 2.

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; aggravating circumstances exist and the Athlete is unable to establish that he did not knowingly commit the anti-doping rule violation; the Athlete does not promptly admit the anti-doping rule violation as alleged; but the Athlete does provide important Substantial Assistance (Article 10.5.3).

### Application of Article 10:

1. The basic sanction would be between two and four years Ineligibility as provided in Article 10.6.
2. Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the maximum four years.
3. Article 10.5.5 does not apply.
4. Under Article 10.9.2, the period of Ineligibility would start on the date of the hearing decision.

### Example 3.

Facts: An Adverse Analytical Finding involves the presence of a Specified Substance; the Athlete establishes how the Specified Substance entered his body and that he had no intent to enhance his sport performance; the Athlete establishes that he had very little fault; and the Athlete provides important Substantial Assistance (Article 10.5.3).

### Application of Article 10:

1. Because the Adverse Analytical Finding involved a Specified Substance and the Athlete has satisfied the other conditions of Article 10.4, the basic sanction would fall in the range between a reprimand and two years Ineligibility. The hearing panel would assess the Athlete's fault in imposing a sanction within that range. (Assume for illustration in this example that the panel would otherwise impose a period of Ineligibility of eight months.)
2. Based on Substantial Assistance, the sanction could be reduced up to three-quarters of the eight months. (No less than two months.) [No Significant Fault (Article 10.2) would not be applicable because the Athlete's degree of fault was already taken into consideration in establishing the eight-month period of Ineligibility in step 1.]

3. Article 10.5.5 does not apply.
4. Under Article 10.9.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Athlete would have to serve at least half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)

Example 4.

Facts: An Athlete who has never had an Adverse Analytical Finding or been confronted with an anti-doping rule violation spontaneously admits that he intentionally used multiple Prohibited Substances to enhance his performance. The Athlete also provides Substantial Assistance (Article 10.5.3).

Application of Article 10:

1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances (Article 10.6), the Athlete's spontaneous admission means that Article 10.6 would not apply. The fact that the Athlete's Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Article 10.4 regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Article 10.2 would be applicable and the basic period of Ineligibility imposed would be two years.
2. Based on the Athlete's spontaneous admissions (Article 10.5.4) alone, the period of Ineligibility could be reduced up to one-half of the two years. Based on the Athlete's Substantial Assistance (Article 10.5.3) alone, the period of Ineligibility could be reduced up to three-quarters of the two years.
3. Under Article 10.5.5, in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three-quarters of the two years. (The minimum period of Ineligibility would be six months.)
4. If Article 10.5.4 was considered by the hearing panel in arriving at the minimum six month period of Ineligibility at step 3, the period of Ineligibility would start on the date the hearing panel imposed the sanction. If, however, the hearing panel did not consider the application of Article 10.5.4 in reducing the period of Ineligibility in step 3, then under Article 10.9.2, the commencement of the period of Ineligibility could be started as early as the date the anti-doping rule violation was committed, provided that at least half of that period (minimum of three months) would have to be served after the date of the hearing decision.]

## **10.6 Aggravating Circumstances Which May Increase the Period of Ineligibility**

If MOC establishes in an individual case involving an anti-doping rule violation other than violations under Articles 2.7 (*Trafficking or Attempted Trafficking*) and 2.8 (*Administration or Attempted Administration*) that aggravating circumstances are present which justify the imposition of a period of *Ineligibility* greater than the standard sanction, then the period of *Ineligibility* otherwise applicable shall be increased up to a maximum of four (4) years unless the *Athlete* or other *Person* can prove to the comfortable satisfaction of the hearing panel that he did not knowingly commit the anti-doping rule violation.

An *Athlete* or other *Person* can avoid the application of this Article by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by MOC.

*[Comment to Article 10.6: Examples of aggravating circumstances which may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions; a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation.]*

*For the avoidance of doubt, the examples of aggravating circumstances described in this Comment to Article 10.6 are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Articles 2.7 (Trafficking or Attempted Trafficking) and 2.8 (Administration or Attempted Administration) are not included in the application of Article 10.6 because the sanctions for these violations (from four years to lifetime Ineligibility) already build in sufficient discretion to allow consideration of any aggravating circumstance.]*

## **10.7 Multiple Violations**

### **10.7.1 Second Anti-Doping Rule Violation**

For an *Athlete's* or other *Person's* first anti-doping rule violation, the period of *Ineligibility* is set forth in Articles 10.2 and 10.3 (subject to elimination, reduction or suspension under Articles 10.4 or 10.5, or to an increase under Article 10.6). For a second anti-doping rule violation

the period of Ineligibility shall be within the range set forth in the table below.

Second Violation	<b>RS</b>	<b>FFMT</b>	<b>NSF</b>	<b>St</b>	<b>AS</b>	<b>TRA</b>
First Violation						
<b>RS</b>	1-4	2-4	2-4	4-6	8-10	10-life
<b>FFMT</b>	1-4	4-8	4-8	6-8	10-life	life
<b>NSF</b>	1-4	4-8	4-8	6-8	10-life	life
<b>St</b>	2-4	6-8	6-8	8-life	life	life
<b>AS</b>	4-5	10-life	10-life	life	life	life
<b>TRA</b>	8-life	life	life	life	life	life

Definitions for purposes of the second anti-doping rule violation table:

**RS** (Reduced sanction for Specified Substance under Article 10.4): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.4 because it involved a Specified Substance and the other conditions under Article 10.4 were met.

**FFMT** (Filing Failures and/or Missed Tests): The anti-doping rule violation was or should be sanctioned under Article 10.3.3 (Filing Failures and/or Missed Tests).

**NSF** (Reduced sanction for *No Significant Fault or Negligence*): The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 10.5.2 because *No Significant Fault or Negligence* under Article 10.5.2 was proved by the *Athlete*.

**St** (Standard sanction under Articles 10.2 or 10.3.1): The anti-doping rule violation was or should be sanctioned by the standard sanction of two (2) years under Articles 10.2 or 10.3.1.

**AS** (Aggravated sanction): The anti-doping rule violation was or should be sanctioned by an aggravated sanction under Article 10.6 because the *Anti-Doping Organization* established the conditions set forth under Article 10.6.

**TRA** (*Trafficking or Attempted Trafficking* and administration or *Attempted* administration): The anti-doping rule violation was or should be sanctioned by a sanction under Article 10.3.2.

*[Comment to Article 10.7.1: The table is applied by locating the Athlete's or other Person's first anti-doping rule violation in the left-hand column and then moving across the table to the right to the column representing the second violation. By way of example, assume an Athlete receives the standard period of Ineligibility for a first violation under Article 10.2 and then commits a second violation for which he receives a reduced sanction for a Specified Substance under Article 10.4. The table is used to determine the period of Ineligibility for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row which is "St" for standard sanction, then moving across the table to the first column which is "RS" for reduced sanction for a Specified Substance, thus resulting in a 2-4 year range for the period of Ineligibility for the second violation. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing a period of Ineligibility within the applicable range.]*

*[Comment to Article 10.7.1 RS Definition: See Article 19.1.4 with respect to application of Article 10.7.1 to pre-Code anti-doping rule violations.]*

### **10.7.2** Application of Articles 10.5.3 and 10.5.4 to Second Anti-Doping Rule Violation

Where an *Athlete* or other *Person* who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of *Ineligibility* under Article 10.5.3 or Article 10.5.4, the hearing panel shall first determine the otherwise applicable period of *Ineligibility* within the range established in the table in Article 10.7.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of *Ineligibility*, after applying any suspension or reduction under Articles 10.5.3 and 10.5.4, must be at least one-fourth of the otherwise applicable period of *Ineligibility*.

### **10.7.3** Third Anti-Doping Rule Violation

A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfills the condition for elimination or reduction of the period of *Ineligibility* under Article 10.4

or involves a violation of Article 2.4 (Filing Failures and/or and Missed Tests). In these particular cases, the period of *Ineligibility* shall be from eight (8) years to life ban.

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

- For purposes of imposing sanctions under Article 10.7, an anti-doping rule violation will only be considered a second violation if *MOC* can establish that the *Athlete* or other *Person* committed the second anti-doping rule violation after the *Athlete* or other *Person* received notice pursuant to Article 7 (Results Management), or after *MOC* made reasonable efforts to give notice, of the first anti-doping rule violation; if *MOC* cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction; however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances (Article 10.6).
- If, after the resolution of a first anti-doping rule violation, *MOC* discovers facts involving an anti-doping rule violation by the *Athlete* or other *Person* which occurred prior to notification regarding the first violation, then *MOC* shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have been adjudicated at the same time. Results in all *Competitions* dating back to the earlier anti-doping rule violation will be *Disqualified* as provided in Article 10.8. To avoid the possibility of a finding of Aggravating Circumstances (Article 10.6) on account of the earlier-in-time but later-discovered violation, the *Athlete* or other *Person* must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged. The same rule shall also apply when *MOC* discovers facts involving another prior violation after the resolution of a second anti-doping rule violation.

*[Comment to Article 10.7.4: In a hypothetical situation, an Athlete commits an anti-doping rule violation on January 1, 2008 which MOC does not discover until December 1, 2008. In the meantime, the Athlete commits another anti-doping rule violation on March 1, 2008 and the Athlete is notified of this violation by MOC on March 30, 2008 and a hearing panel rules on June 30, 2008 that the Athlete committed the March 1, 2008 anti-doping rule violation. The later-discovered violation which occurred on January 1, 2008 will provide the basis for aggravating circumstances because the Athlete did not voluntarily admit the violation in a timely basis after the Athlete received notification of the later violation on March 30, 2008.]*

**10.7.5** Multiple Anti-Doping Rule Violations during an Eight-Year Period

For purposes of Article 10.7, each anti-doping rule violation must take place within the same eight (8) year period in order to be considered multiple violations.

**10.8 Disqualification of Results in Competitions Subsequent to Sample Collection or Commission of an Anti-Doping Rule Violation**

In addition to the automatic *Disqualification* of the results in the *Competition* which produced the positive *Sample* under Article 9 (Automatic *Disqualification* of Individual Results), all other competitive results obtained from the date a positive *Sample* was collected (whether *In-Competition* or *Out-of-Competition*), or other anti-doping rule violation occurred, through the commencement of any *Provisional Suspension* or *Ineligibility* period, shall, unless fairness requires otherwise, be *Disqualified* with all of the resulting *Consequences* including forfeiture of any medals, points and prizes.

**10.8.1** As a condition of regaining eligibility after being found to have committed an anti-doping rule violation, the *Athlete* must first repay all prize money forfeited under this Article.

**10.8.2** Allocation of Forfeited Prize Money.

Unless the rules of the International Federation provide that forfeited prize money shall be reallocated to other *Athletes*, it:

shall be allocated first to reimburse the collection expenses of the *Anti-Doping Organization* that performed the necessary steps to collect the prize money back, then to reimburse the expenses of the *Anti-Doping Organization* that conducted results management in the case, with the balance, if any, allocated in accordance with the International Federation's rules.

*[Comment to Article 10.8.2: Nothing in these Anti-Doping Rules precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right which they would otherwise have to seek damages from such Person.]*

## **10.9 Commencement of *Ineligibility* Period**

Except as provided below, the period of *Ineligibility* shall start on the date of the hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* imposed.

### **10.9.1 Delays Not Attributable to the *Athlete* or other *Person***

Where there have been substantial delays in the hearing process or other aspects of *Doping Control* not attributable to the *Athlete* or other *Person*, MOC imposing the sanction may start the period of *Ineligibility* at an earlier date commencing as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred.

### **10.9.2 Timely Admission**

Where the *Athlete* promptly (which, in all events, means before the *Athlete* competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by MOC, the period of *Ineligibility* may start as early as the date of *Sample* collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Article is applied, the *Athlete* or other *Person* shall serve at least one-half of the period of *Ineligibility* going forward from the date the *Athlete* or other *Person* accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.

*[Comment to Article 10.9.2: This Article shall not apply where the period of Ineligibility already has been reduced under Article 10.5.4 (Admission of an Anti-Doping Rule Violation in the Absence of Other Evidence).]*

**10.9.3** If a *Provisional Suspension* is imposed and respected by the *Athlete*, then the *Athlete* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed.

**10.9.4** If an *Athlete* voluntarily accepts a *Provisional Suspension* in writing from MOC and thereafter refrains from competing, the *Athlete* shall receive a credit for such period of voluntary *Provisional Suspension*

against any period of *Ineligibility* which may ultimately be imposed. A copy of the *Athlete's* voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of a potential anti-doping rule violation under Article 14.1.

*[Comment to Article 10.9.4: An Athlete's voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.]*

**10.9.5** No credit against a period of *Ineligibility* shall be given for any time period before the effective date of the *Provisional Suspension* or voluntary *Provisional Suspension* regardless of whether the *Athlete* elected not to compete or was suspended by his or her team.

*[Comment to Article 10.9: The text of Article 10.9 has been revised to make clear that delays not attributable to the Athlete, timely admission by the Athlete and Provisional Suspension are the only justifications for starting the period of Ineligibility earlier than the date of the hearing decision. This amendment corrects inconsistent interpretation and application of the previous text.]*

## **10.10 Status During *Ineligibility***

### **10.10.1 Prohibition against Participation during *Ineligibility***

No *Athlete* or other *Person* who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in a *Competition* or activity (other than authorized anti-doping education or rehabilitation programs) authorized or organized by any *Signatory*, *Signatory's* member organizations, including any *National Federation* or a club or other member organization of any *National Federation*, or in *Competitions* authorized or organized by any professional league or any international or national level *Event* organization.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate in local sport events in a sport other than the sport in which the *Athlete* or other *Person* committed the anti-doping rule violation, but only so long as the local sport event is not at a level that could otherwise qualify such *Athlete* or other *Person* directly or indirectly to compete in (or accumulate points toward) a

national championship or *International Event*.

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

*[Comment to Article 10.10.1: For example, an ineligible Athlete cannot participate in a training camp, exhibition or practice organized by his or her National Federation or a club which is a member of that National Federation. Further, an ineligible Athlete may not compete in a non-Signatory professional league (e.g., the National Hockey League, the National Basketball Association, etc.), Events organized by a non-Signatory International Event organization or a non-Signatory national-level event organization without triggering the consequences set forth in Article 10.10.2. Sanctions in one sport will also be recognized by other sports (see Article 15 Mutual Recognition).]*

**10.10.2** Violation of the Prohibition of Participation during *Ineligibility*

Where an *Athlete* or other *Person* who has been declared *Ineligible* violates the prohibition against participation during *Ineligibility* described in Article 10.10.1, the results of such participation shall be *Disqualified* and the period of *Ineligibility* which was originally imposed shall start over again as of the date of the violation. The new period of *Ineligibility* may be reduced under Article 10.5.2 if the *Athlete* or other *Person* establishes he or she bears *No Significant Fault or Negligence* for violating the prohibition against participation. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether a reduction under Article 10.5.2 is appropriate, shall be made by the *Anti-Doping Organization* whose results management led to the imposition of the initial period of *Ineligibility*.

*[Comment to Article 10.10.2: If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, the Anti-Doping Organization which had results management responsibility for the anti-doping rule violation which resulted in the period of Ineligibility shall determine whether the Athlete or other Person violated the prohibition and, if so, whether the Athlete or other Person has established grounds for a reduction in the restarted period of Ineligibility under Article 10.5.2. Decisions rendered by Anti-Doping Organizations under this Article may be appealed pursuant to Article 13.2.]*

*Where an Athlete Support Personnel or other Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, MOC may appropriately impose sanctions under its own disciplinary rules for such assistance.]*

### **10.10.3** Withholding of Financial Support during *Ineligibility*

In addition, for any anti-doping rule violation not involving a reduced sanction for *Specified Substances* as described in Article 10.4, some or all sport-related financial support or other sport-related benefits received by such *Person* will be withheld by *Signatories, Signatories'* member organizations, including *National Federations*, and governments.

## **10.10 Reinstatement Testing**

As a condition to regaining eligibility at the end of a specified period of *Ineligibility*, an *Athlete* must, during any period of *Provisional Suspension* or *Ineligibility*, make him or herself available for *Out-of-Competition Testing* by MOC, the applicable *National Federation*, and any other *Anti-Doping Organization* having *Testing* jurisdiction, and must, if requested, provide current and accurate whereabouts information. If an *Athlete* subject to a period of *Ineligibility* retires from sport and is removed from *Out-of-Competition Testing* pools and later seeks reinstatement, the *Athlete* shall not be eligible for reinstatement until the *Athlete* has notified MOC, the applicable *National Federation* and the relevant *Anti-Doping Organizations* and has been subject to *Out-of-Competition Testing* for a period of time equal to the period of *Ineligibility* remaining as of the date the *Athlete* had retired.

## **ARTICLE 11 CONSEQUENCES TO TEAMS**

### **11.1 Testing of Team Sports.**

Where more than one member of a team in a *Team Sport* has been notified of an anti-doping rule violation under Article 7 (Results Management) in connection with an *Event*, the ruling body for the *Event* shall conduct appropriate *Target Testing* of the team during the *Event Period*.

### **11.2 Consequences for Team Sports.**

If more than two members of a team in a *Team Sport* are found to have committed an anti-doping rule violation during an *Event Period*, the ruling body of the *Event* shall impose an appropriate sanction on the team (e.g., loss of points, *Disqualification* from a *Competition* or *Event*, or other sanction) in addition to any *Consequences* imposed upon the individual *Athletes* committing the anti-doping rule violation.

### **11.3 Event Ruling Body May Establish Stricter *Consequences* for Team Sports.**

The ruling body for an *Event* may elect to establish rules for the *Event* which impose *Consequences* for *Team Sports* stricter than those in Article 11.2 for purposes of the *Event*.

*[Comment to Article 11.3: For example, the International Olympic Committee could establish rules which would require Disqualification of a team from the Games of the Olympiad based on a lesser number of anti-doping rule violations during the period of the Games of the Olympiad.]*

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

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## **ARTICLE 13            APPEALS**

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

Decisions made under these Anti-Doping Rules may be appealed as set forth below in Articles 13.2 through 13.4 or as otherwise provided in these Anti-Doping Rules. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in these rules or in the rules of the *Anti-Doping Organization* conducting the hearing process as per article 8 must be exhausted (except as provided in Article 13.1.1).

#### **13.1.1            WADA Not Required to Exhaust Internal Remedies**

Where WADA has a right to appeal under Article 13 and no other party has appealed a final decision within MOC's process, WADA may appeal such decision directly to CAS without having to exhaust other remedies in the MOC's process.

*[Comment to Article 13.1.1: Where a decision has been rendered before the final stage of MOC's process (for example, a first hearing) and no party elects to appeal that decision to the next level of MOC's process (e.g., the Managing Board), then WADA may bypass the remaining steps in MOC's internal process and appeal directly to CAS.]*

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

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision under Article 10.10.2 (Violation of the Prohibition of Participation during *Ineligibility*); a decision that the MOC lacks jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision by an *Anti-Doping Organization* not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under Article 7.1.9; and a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing* or in violation of Article 7.6 may be appealed exclusively as provided in this Article 13.2.

#### **13.2.1 Appeals Involving *International-Level Athletes***

In cases arising from participation in an *International Event* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

*[Comment to Article 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]*

### **13.2.2** Appeals Involving *National-Level Athletes*

In cases involving *National-Level Athletes*, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

### **13.2.3** *Persons* Entitled to Appeal

In cases under Article 13.2.1, the following parties shall have the right to appeal to CAS: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the relevant International Federation; (d) MOC and the *National Anti-Doping Organization* of the *Person's* country of residence or countries where the *Person* is a national or license holder; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) WADA.

In cases under Article 13.2.2, the parties having the right to appeal to the national-level reviewing body shall include the following parties: (a) the *Athlete* or other *Person* who is the subject of the decision being appealed; (b) the other party to the case in which the decision was rendered; (c) the relevant International Federation; (d) the *National Anti-Doping Organization* of the *Person's* country of residence; and (e) WADA. For cases under Article 13.2.2, WADA and the International Federation shall also have the right to appeal to CAS with respect to the decision of the national-level reviewing body. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the *Anti-Doping Organization* whose decision is being appealed and the information shall be provided if CAS so directs.

Notwithstanding any other provision herein, the only *Person* who may appeal from a *Provisional Suspension* is the *Athlete* or other *Person* upon whom the *Provisional Suspension* is imposed.

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

Where, in a particular case, MOC fails to render a decision with respect to

whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if MOC had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorneys fees in prosecuting the appeal shall be reimbursed to WADA by MOC.

*[Comment to Article 13.3: Given the different circumstances of each anti-doping rule violation investigation and results management process, it is not feasible to establish a fixed time period for MOC to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with MOC and give MOC an opportunity to explain why it has not yet rendered a decision. Nothing in this Article prohibits MOC from also having rules which authorize it to assume jurisdiction for matters in which the results management performed by one National Federation has been inappropriately delayed.]*

### **13.4 Appeals from Decisions Granting or Denying a TUE**

Decisions by WADA reversing the grant or denial of a TUE may be appealed exclusively to CAS by the Athlete or the Anti-Doping Organization whose decision was reversed. Decisions denying TUE's, which are not reversed by WADA, may be appealed by International-Level Athletes to CAS and by other Athletes to CAS.

When MOC, or other bodies designated by MOC fail to take action on a properly submitted TUE application within a reasonable time, their failure to decide may be considered a denial for purposes of the appeal rights provided in this Article.

### **13.5 Appeals from Decisions Pursuant to Article 12**

Decisions by MOC pursuant to Article 12 may be appealed exclusively to CAS.

### **13.6 Time for Filing Appeals**

**13.6.1** The time to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings having lead to the decision subject to appeal:

- a) Within ten (10) days from notice of the decision, such party/ies shall have the right to request from the body having issued the decision a copy of the file on which such body relied;
- b) If such a request is made within the ten-day period, then the party making such request shall have twenty-one (21) days from receipt of the file to file an appeal to CAS.

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

- (a) Twenty-one (21) days after the last day on which any other party in the case could have appealed, or
- (b) Twenty-one (21) days after WADA's receipt of the complete file relating to the decision.

## **ARTICLE 14 REPORTING AND RECOGNITION**

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

#### **14.1.1** Status Reports.

An *Athlete* whose *Sample* is brought forward as an *Adverse Analytical Finding*, or an *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation after initial review, as well as the *Athlete's* International Federation and WADA, shall be regularly updated on the status and findings of any review or proceedings conducted pursuant to Articles 7 (Results Management), 8 (Right to a Fair Hearing) or 13 (Appeals) and shall be provided with a prompt written reasoned explanation or decision explaining the resolution of the matter.

#### **14.1.2** Confidentiality.

The recipient organizations shall not disclose this information beyond those *Persons* with a need to know (which would include the appropriate personnel at the applicable *National Olympic Committee*, *National Federation*, and team in a *Team Sport*) until the *Anti-Doping*

*Organization* with results management responsibility has made public disclosure or has failed to make public disclosure as required in Article 14.2 below.

## **14.2 Public Disclosure.**

**14.2.1** The identity of any *Athlete* or other *Person* who is asserted by *MOC* to have committed an anti-doping rule violation, may be *Publicly Disclosed* by *MOC* only after notice has been provided to the *Athlete* or other *Person*, and to the applicable *Anti-Doping Organizations* in accordance with Article 7.1, 7.2 or 7.4.

**14.2.2** No later than twenty (20) days after it has been determined in a hearing in accordance with Article 8 (Disciplinary Procedure) that an anti-doping rule violation has occurred, or such hearing has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, *MOC* must publicly report the disposition of the anti-doping matter including the sport, the anti-doping rule violated, the name of the *Athlete* or other *Person* committing the violation, the *Prohibited Substance* or *Prohibited Method* involved and the *Consequences* imposed. *MOC* must also publicly report within twenty (20) days appeal decisions concerning anti-doping rule violations. *MOC* shall also, within the time period for publication, send all hearing and appeal decisions to *WADA*.

**14.2.3** In any case where it is determined, after a hearing or appeal, that the *Athlete* or other *Person* did not commit an anti-doping rule violation, the decision may be disclosed publicly only with the consent of the *Athlete* or other *Person* who is the subject of the decision. *MOC* shall use reasonable efforts to obtain such consent, and if consent is obtained, shall publicly disclose the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**14.2.4** For purposes of Article 14.2, publication shall be accomplished at a minimum by placing the required information on the *MOC* or *National Federations'* Web site and leaving the information up for at least one (1) year.

**14.2.5** Neither *MOC*, nor an official of *MOC*, shall publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete*, other *Person* or their representatives.

### **14.3 Statistical Reporting.**

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

### **14.4 Doping Control Information Clearinghouse.**

*WADA* shall act as a central clearinghouse for *Doping Control Testing* data and results for *International-Level Athletes* and *National-Level Athletes* who have been included in *MOC's Registered Testing Pool*. To facilitate coordinated test distribution planning and to avoid unnecessary duplication in *Testing* by the various *Anti-Doping Organizations*, *MOC* shall report all *In-Competition* and *Out-of-Competition* tests on such *Athletes* to the *WADA* clearinghouse as soon as possible after such tests have been conducted. This information will be made accessible to the *Athlete*, the *Athlete's National Federation*, *National Olympic Committee* or *National Paralympic Committee*, *MOC*, *International Federation*, and the *International Olympic Committee* or *International Paralympic Committee*.

To enable it to serve as a clearinghouse for *Doping Control Testing* data, *WADA* has developed a database management tool, *ADAMS*, that reflects emerging data privacy principles. Private information regarding an *Athlete*, *Athlete Support Personnel*, or others involved in anti-doping activities shall be maintained by *WADA*, which is supervised by Canadian privacy authorities, in strict confidence and in accordance with the *International Standard* for the protection of privacy.

### **14.5 Data Privacy.**

When performing obligations under these rules, *MOC* or *National Federations* may collect, store, process or disclose personal information relating to *Athletes* and third parties. *MOC* or *National Federations* shall ensure that they comply with applicable data protection and privacy laws with respect to their handling of such information, as well as the *International Standard* for the protection of privacy that *WADA* shall adopt to ensure *Athletes* and non-athletes are fully informed of and, where necessary, agree to the handling of their personal information in connection with anti-doping activities arising under the *Code* and these *Anti-Doping Rules*.

## **ARTICLE 15            MUTUAL RECOGNITION**

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

*[Comment to Article 15.1: There has in the past been some confusion in the interpretation of this Article with regard to TUEs. Unless provided otherwise by the rules of an International Federation or an agreement with an International Federation, National Anti-Doping Organizations do not have "authority" to grant TUEs to International-Level Athletes.]*

**15.2**     *MOC* and *National Federations* shall recognize the same actions of other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

*[Comment to Article 15.2: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, MOC or National Federation shall attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in his body but the period of Ineligibility applied is shorter than the period provided for in the Code, then MOC should recognize the finding of an anti-doping rule violation and they should conduct a hearing consistent with Article 8 (Disciplinary Procedure) to determine whether the longer period of Ineligibility provided in these Anti-Doping Rules should be imposed.]*

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

## **ARTICLE 16            STATUTE OF LIMITATIONS**

No action may be commenced against an *Athlete* or other *Person* for an anti-doping rule violation contained in these Anti-Doping Rules unless such action is



**18.8** If any Article of these Anti-Doping Rules is held invalid, unenforceable or illegal for any reason, these Anti-Doping Rules shall remain otherwise in full force apart from such Article which shall be deemed deleted insofar as it is invalid, unenforceable or illegal.

## **ARTICLE 19: TRANSITIONAL PROVISIONS AND VALIDITY**

**19.1** These Anti-Doping Rules shall come into full force and effect January 31, 2011 (the "Effective Date"). They shall not apply retrospectively to matters pending before the Effective Date. However, the following exceptions shall apply:

**19.1.1** With respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred unless the panel hearing the case determines the principle of "lex mitior" appropriately applies under the circumstances of the case.

**19.1.2** Any Article 2.4 whereabouts violation (whether a filing failure or a missed test) declared by MOC under rules in force prior to the Effective Date that has not expired prior to the Effective Date and that would qualify as a whereabouts violation under Article 11 of the *International Standard for Testing* shall be carried forward and may be relied upon, prior to expiry, in accordance with the *International Standards for Testing*.

**19.1.3** With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to the *Anti-Doping Organization* which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of these anti-doping rules. Such application must be made before the period of *Ineligibility* has expired. The decision rendered may be appealed pursuant to Article 13.2. These anti-doping rules shall have no application to any anti-doping rule violation case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

**19.1.4** Subject always to Article 10.7.5, anti-doping rule violations committed under rules in force prior to the Effective Date shall be taken into account as prior offences for purposes of determining sanctions under Article 10.7. Where such pre-Effective Date anti-doping rule violation involved a substance that would be treated as a Specified Substance under these Anti-Doping Rules, for which a period of *Ineligibility* of less than two years was imposed, such violation shall be considered a Reduced Sanction violation for purposes of Article 10.7.1.

**ARTICLE 20: ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS**

**20.1** Roles and Responsibilities of *Athletes*.

**20.1.1** To be knowledgeable of and comply with these anti-doping rules

**20.1.2** To be available for *Sample* collection.

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

**20.1.4** To inform medical personnel of their obligation not to *Use Prohibited Substances* and *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate these anti-doping rules.

**20.2** Roles and Responsibilities of *Athlete Support Personnel*

**20.2.1** To be knowledgeable of and comply with these anti-doping rules.

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

**20.2.3** To use their influence on *Athlete* values and behavior to foster anti-doping attitudes.

## **APPENDIX I - DEFINITIONS**

*ADAMS. The Anti-Doping Administration and Management System is a Web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.*

*Adverse Analytical Finding: A report from a laboratory or other approved Testing entity that identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances) or evidence of the Use of a Prohibited Method.*

*Anti-Doping Organization: A Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process. This includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organizations that conduct Testing at their Events, WADA, International Federations, and National Anti-Doping Organizations.*

*Athlete. Any Person who participates in sport at the international level (as defined by each International Federation), the national level (as defined by each National Anti-Doping Organization, including but not limited to those Persons in its Registered Testing Pool), and any other competitor in sport who is otherwise subject to the jurisdiction of any Signatory or other sports organization accepting the Code. All provisions of the Code, including, for example, Testing, and TUE's must be applied to international and national-level competitors. Some National Anti-Doping Organizations may elect to test and apply anti-doping rules to recreational-level or masters competitors who are not current or potential national caliber competitors. National Anti-Doping Organizations are not required, however, to apply all aspects of the Code to such Persons. Specific national rules may be established for Doping Control for non-international-level or non-national-level competitors without being in conflict with the Code. Thus, a country could elect to test recreational-level competitors but not require TUE's or whereabouts information. In the same manner, a Major Event Organization holding an Event only for masters-level competitors could elect to test the competitors but not require advance TUE or whereabouts information. For purposes of Article 2.8 (Administration or Attempted Administration) and for purposes of anti-doping information and education, any Person who participates in sport under the authority of any Signatory, government, or other sports organization accepting the Code is an Athlete.*

*[Comment to Athlete: This definition makes it clear that all international and national-caliber athletes are subject to the anti-doping rules of the Code, with the precise definitions of international and national level sport to be set forth in the anti-doping rules of the IFs and National Anti-Doping Organizations, respectively. At the national level, anti-doping rules adopted pursuant to the Code shall apply,*

*at a minimum, to all persons on national teams and all persons qualified to compete in any national championship in any sport. That does not mean, however, that all such Athletes must be included in a National Anti-Doping Organization's Registered Testing Pool. The definition also allows each National Anti-Doping Organization, if it chooses to do so, to expand its anti-doping program beyond national-caliber athletes to competitors at lower levels of competition. Competitors at all levels of competition should receive the benefit of anti-doping information and education.]*

*Athlete Support Personnel:* Any coach, trainer, manager, agent, team staff, official, medical, paramedical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

*Attempt:* Engaging in conduct that constitutes a substantial step in a course of conduct which could or did culminate in the commission of an anti-doping rule violation. Provided, however, there must be no anti-doping rule violation based solely on an *Attempt* to commit a violation if the *Person* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

*Atypical Finding:* A report from a laboratory or other WADA-approved entity which requires further investigation as provided by the *International Standard* for Laboratories or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

*CAS:* The Court of Arbitration for Sport.

*MOC:* The Montenegrin Olympic Committee, which also acts as the *National Anti-Doping Organization* of Montenegro.

*Code:* The World Anti-Doping *Code* first adopted by WADA on 5 March 2003, and any subsequent amendments.

*Competition:* A single race, match, game or singular athletic contest. For example, a basketball game or the finals of the Olympic 100-meter race in athletics. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the relevant International Federation.

*Consequences of Anti-Doping Rules Violations:* An *Athlete's* or other *Person's* violation of an anti-doping rule may result in one or more of the following: (a) *Disqualification* means the *Athlete's* results in a particular *Competition* or *Event* are invalidated, with all resulting consequences including forfeiture of any medals, points and prizes; (b) *Ineligibility* means the *Athlete* or other *Person* is barred for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10.9 of the *Code* (Status During *Ineligibility*); and (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred

temporarily from participating in any *Competition* prior to the final decision at a hearing conducted under Article 8 of the *Code*.

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

*Doping Control*: All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between such as provision of whereabouts information, sample collection and handling, laboratory analysis, therapeutic use exemptions, results management and hearings.

*Event*: A series of individual *Competitions* conducted together under one ruling body (e.g., the Olympic Games, FINA World Championships, or Pan American Games).

*Event Period*: The time between the beginning and end of an *Event*, as established by the ruling body of the *Event*.

*In-Competition*: Unless provided otherwise in the rules of an International Federation or other relevant *Anti-Doping Organization*, “*In-Competition*” means the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*.

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

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

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

*International Event*: An *Event* where the International Olympic Committee, the International Paralympic Committee, an International Federation, a *Major Event Organization*, or another international sport organization is the ruling body for the *Event* or appoints the technical officials for the *Event*.

*International-Level Athlete*: An *Athlete* designated by one or more International Federations as being within the *Registered Testing Pool* for an International Federation.

*International Standard*: A standard adopted by WADA in support of the *Code*. Compliance with an *International Standard* (as opposed to another alternative standard, practice or procedure) must be sufficient to conclude that the procedures addressed by the *International Standard* were performed properly. *International Standards* shall include any Technical Documents issued pursuant to the *International Standard*.

Major Event Organizations: This term refers to the continental associations of *National Olympic Committees* and other international multi-sport Organizations that function as the ruling body for any continental, regional or other *International Event*.

Marker: A compound, group of compounds or biological parameter(s) that indicates the *Use of a Prohibited Substance or Prohibited Method*.

Metabolite: Any substance produced by a biotransformation process.

Minor: A natural *Person* who has not reached the age of majority as established by the applicable laws of their country of residence.

Montenegro Anti-Doping Disciplinary Panel: The panel appointed by the Montenegro *National Olympic Committee* to adjudicate on alleged violations of these Anti-Doping Rules.

National Anti-Doping Organization: The entity(ies) designated by each country as possessing the primary authority and responsibility to adopt and implement Anti-Doping Rules, direct the collection of *Samples*, the management of test results, and the conduct of hearings, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional *Anti-Doping Organization* for such countries. If this designation has not been made by the competent public authority(ies), the entity must be the country's *National Olympic Committee* or its designee. For the purposes of these Anti-Doping Rules, the *MOC* will be the designated entity.

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

National-Level Athlete: An *Athlete*, other than an *International-Level Athlete*, who is designated by the *MOC* as being within the *MOC Registered Testing Pool*.

National Olympic Committee: The organization recognized by the International Olympic Committee. The term *National Olympic Committee* must also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Olympic Committee* responsibilities in the anti-doping area.

National Sports Federation: Any national, provincial or territorial *Person* governing sport in Montenegro or part thereof and its affiliated members, clubs, teams, associations and leagues.

No Advance Notice: A *Doping Control* which takes place with no advance warning to the *Athlete* and where the *Athlete* is continuously chaperoned from the moment of notification through *Sample* provision.

NOC Team: any Montenegro Olympic Team or other team selected by the *Montenegrin Olympic Committee*.

No Fault or Negligence: The *Athlete's* establishing that they did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that they had *Used* or been administered the *Prohibited Substance* or *Prohibited Method*.

No Significant Fault or Negligence: The *Athlete's* establishing that their fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for *No Fault or Negligence*, was not significant in relationship to the anti-doping rule violation.

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

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

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

Possession. The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the person has exclusive control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists); provided, however, that if the person does not have exclusive control over the *Prohibited Substance* or *Prohibited Method* or the premises in which a *Prohibited Substance* or *Prohibited Method* exists, constructive *Possession* shall only be found if the person knew about the presence of the *Prohibited Substance* or *Prohibited Method* and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on *Possession* if, prior to receiving notification of any kind that the *Person* has committed an anti-doping rule violation, the *Person* has taken concrete action demonstrating that the *Person* never intended to have *Possession* and has renounced *Possession* by explicitly declaring it to an *Anti-Doping Organization*. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a *Prohibited Substance* or *Prohibited Method* constitutes *Possession* by the *Person* who makes the purchase.

[*Comment: Under this definition, steroids found in an Athlete's car would constitute a violation unless the Athlete establishes that someone else used the car; in that event, the Anti-Doping Organization must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, the Anti-Doping Organization must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids.*]

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

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

Prohibited Substance: Any substance so described on the *Prohibited List*.

Provisional Hearing. For purposes of Article 7.6, an expedited abbreviated hearing occurring prior to a hearing under Article 8 (Disciplinary Procedure) that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

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

Publicly Disclose or Publicly Report: To disseminate or distribute information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Articles 7 and 14 of the *Code*.

Registered Testing Pool: The pool of top level *Athletes* established separately by each International Federation and *National Anti-Doping Organization* who are subject to both *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or *National Anti-Doping Organization's* test distribution plan.

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

[*Comment to Sample or Specimen: It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.*]

Signatories: Those entities signing the *Code* and agreeing to comply with the *Code*, including the International Olympic Committee, International Federations, International Paralympic Committee, *National Olympic Committees*, National Paralympic Committees, *Major Event Organizations*, *National Anti-Doping Organizations*, and WADA.

Specified Substances. As defined in Article 4.2.2.

Substantial Assistance: For purposes of Article 10.5.3, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) fully cooperate with the investigation and adjudication of any case related to that information, including, for example, presenting testimony at a hearing if requested to do so by an *Anti-Doping Organization* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

Tampering: Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or

engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring; or providing fraudulent information to an *Anti-Doping Organization*.

Target Testing: Selection of *Athletes* for *Testing* where specific *Athletes* or groups of *Athletes* are selected on a non-random basis for *Testing* at a specified time.

Team Sport: A sport in which the substitution of players is permitted during a *Competition*.

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

Trafficking: Selling, giving, transporting, sending, delivering or distributing a *Prohibited Substance* or *Prohibited Method* (either physically or by any electronic or other means) by an *Athlete*, *Athlete Support Personnel* or any other *Person* subject to the jurisdiction of an *Anti-Doping Organization* to any third party; provided, however, this definition shall not include the actions of bona fide medical personnel involving a *Prohibited Substance* used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes.

TUE: Therapeutic Use Exemption.

TUEC: TUE Committee established by the MOC.

UNESCO Convention: The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

Use: The utilization, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.

WADA: The World Anti-Doping Agency, being a Foundation constituted under the Swiss Civil Code in Lausanne on 10 November 1999 and any *National Anti-Doping Organization* contracted by WADA.