

WORLD ANTI-DOPING AGENCY

# **INDEPENDENT OBSERVERS REPORT**

OLYMPIC SUMMER GAMES 2004  
ATHENS

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# I. INTRODUCTION\*

## PREFACE

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The World Anti-Doping Agency (WADA) is a collective initiative by the Olympic Movement and governments around the world. WADA plays an important leadership and coordination role in pursuing doping-free sports worldwide with all its partners in accordance with the newly established World Anti-Doping Code.

The Independent Observer Program is an important program for WADA which has, since its inception in 2000, grown to both strengthen and build confidence in the doping control process among athletes, the sports world and the general public.

In order to successfully carry out its mission, experts were recruited who possessed competence and knowledge in all aspects of the doping control process, including sample collection, laboratory analysis, results management, medical and legal.

It was a privilege for us to work with such a quality team of individuals. Their expertise and professionalism were critical to the success of the mission in Athens.

The Doping Control Program at the Games was well organized, and we would like to thank the International Olympic Committee, the Athens Organizing Committee and many athletes for their support and cooperation. We hope that our presence in Athens helped achieve the success of the Games, and that the observations and recommendations contained in the enclosed report will contribute to the implementation of effective testing programs at major sporting events in the future.

### **Ulrich Haas**

Chair of the Independent Observer Team,  
Athens Olympic Games – 2004

### **Graeme Steel**

Vice Chair of the Independent Observer Team,  
Athens Olympic Games – 2004

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\* Note: In the Report, the masculine gender used in relation to any physical person shall – in principle - be understood as including the feminine gender.

## BACKGROUND

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One of WADA's main programs is the Independent Observer program. Through the support of the International Olympic Committee (IOC), the Office of the Independent Observer program (IO) was first introduced at the Olympic Games in Sydney, Australia, in 2000 and continued its observations at the Olympic Winter Games in Salt Lake City in 2002. Reports were published following each of the Games. In the meanwhile, the IO program has been institutionalized to a large degree. The IOC's duties as described in Article 20.1.5 of the World Anti-Doping Code (WADC) specifically include "authoriz[ing] and facilitat[ing] the Independent Observer Program." In fulfillment of this obligation, the IOC invited WADA to put together a team for the Olympic Games in Athens.

While confidence in the doping control process is continuing to grow in large measure due to the presence of the Independent Observers, the public and many competitors themselves still do not have complete confidence in the process and decisions that may or may not lead to doping violations. Rumors of outstanding doping issues at Games in the past are still in some peoples' minds. An open and transparent system helps rebuild confidence in our collective effort to protect athletes' rights to compete in sports free from doping. This is of particular importance at the Olympic Games: the pinnacle of sporting competition.

With the Introduction of the World Anti-Doping Code (WADC), the IO program has evolved to further ensure independence from WADA in the conduct of its observations and in the writing of the report. This is important as some recommendations made may impact upon the Code and Mandatory Standards for which WADA itself is responsible.

As mentioned in previous reports and often stated publicly, the creation of the Independent Observer has been a crucial step in demonstrating doping control transparency and accountability in sport. The Independent Observer essentially acts as the eyes and ears of the world as it observes and monitors all aspects of the doping control process, prior to, during, and where necessary, after the Games.

One fundamental objective of the Independent Observer is to ensure that the doping control process at the Games is both fair and seen to be fair, and that those responsible for conducting the testing program in Athens, namely Athens Organizing Committee (ATHOC) and the IOC, followed their processes fully and properly. Achieving such an objective helps to strengthen the confidence of athletes, the sports world and the public in the doping control process. The role of the Independent Observer is therefore to review, observe and report on all aspects of the doping control operations in a neutral and unbiased manner. In order to provide effective observation and reporting, independent experts from throughout the world were recruited for the Athens Games (see Appendix 1).

Previous IO missions have been very successful overall. The monitoring assignment and objective of those missions were documented in a comprehensive report in each case. The purpose of the reports so far has been to describe and evaluate the doping control program conducted by the event organizer. In addition, the aim is for the reports to contribute to sustainably improving the event organizer's doping control program. For this reason, the reports contain not only a descriptive section, but also numerous recommendations. The present report conforms to this convention and contributes to the discussion, with the goal of working toward doping-free sporting events, while at the same time protecting the rights of athletes.

At the press conference in Athens on August 12, 2004, where the Independent Observer Team was announced, WADA Chairman, **Richard W. Pound QC**, stated:

*"WADA is very pleased to be at these Olympic Games, the first to be held since acceptance and implementation of the World Anti-Doping Code by sports organizations.*

*We are very pleased to have been invited by the IOC to carry out independent observations of the athlete testing program. Independent observers serve a very important function by ensuring that the doping control process is fair and transparent. Our Team this year is ably led by Professor Ulrich Haas of Germany."*

**Ulrich Haas**, Chair of the Athens IO Team, stated:

*"The independent observer program is very important to ensure transparency in the doping control process during the Games. This in turn serves to build confidence among athletes, the sports world and the general public.*

*Our role will be to independently monitor all aspects of the testing program and to provide a public report on the operations with possible recommendations for future sporting events. The various doping control elements include: athlete selection, sample collection, transportation of samples, laboratory analyses, simultaneous receipt of all athlete testing forms, and laboratory results, and attendance at all review hearings and appeals.*

*I am honored to have been asked to serve as Chair for the IO Team in Athens, heading a group of leading experts in doping control from around the world."*

The work of the Independent Observer, as with previous Games, was predicated on a number of basic principles:

- Absolute confidentiality with regard to all information gathered as a result of the work of the Team. Hence, no comments on the information gathered would be given to any person, including in particular to any media representative. (All visitors to the Office of the Independent Observer in Athens were also requested to sign a confidentiality agreement with respect to what they might see or hear in connection with its work).
- Non-interference with any stage or operation in the doping control process. Those tasked with the various doping control responsibilities would continue to be those in charge at the respective phases. The principle of the IO meant that the observer could not react or respond to questions or requests for help, however well intentioned such requests might be.
- Total transparency: WADA instructed the Office of the Independent Observer to prepare its own report, which would be made public, by October 2004.
- Total independence, including financial, from any of the parties involved. This precluded members of the Office from being involved with any of the doping control processes in Athens, either through membership in the IOC, involvement with its medical commission, holding leading anti-doping functions/roles with summer Olympic sports, or being part of ATHOC or a citizen/resident of the host country.
- Assurance that any potential conflict of interest amongst the members of the Office would be addressed by a pre-established procedure.
- The work of the Office and its members would be based on a Code of Conduct.
- This also meant that any other members (Board or staff) of WADA, other than the IO Team Management Staff, who were present in Athens were not part of the IO Team nor privy to any of the information or material gathered by the Team.

- The relevant documents showing how these principles were put into effect are reproduced in Appendices 2 (Declaration of Confidentiality) and 3 (Code of Professional Conduct) to this report.

## THE TEAM

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The Director General of WADA appointed Professor Ulrich Haas as Chair of the Office of the Independent Observer. Selection of the members of the Team was undertaken to ensure both the expertise required to appropriately monitor all aspects of the doping control process and to ensure regional and interest group representation (such as athletes, National Olympic Committees, public authorities). This process took place over the months of October to December 2003. Teleconferences were conducted to fully brief the IOs on their roles and responsibilities and a training/orientation session was held upon arrival of team members in Athens.

Compared with missions at previous Olympic Games, the team this time was small. In some fields, only one expert per professional specialty was made available. Moreover, there was a gap in staffing doping controls for animals competing in sports. Because none of the members of the team had experience in this area, the IO Team decided to refrain from commenting on this aspect of the anti-doping program.

The IO Team relied on extensive logistical help from two WADA staff members to fulfill its mission. The WADA staff members did not participate in the observations, but instead set up and operated the IO office, coordinated the work of the Team members, assisted the Team's Chairman, prepared the handouts for daily meetings, set up contacts with the various commissions of the IOC, the laboratory, ATHOC and CAS, and performed all necessary administrative activities. The IO Team would like to thank Casey Wade and Shannan Withers—the WADA staff at the IO office—for their unconditional support. Without this support, it would not have been possible to conduct the mission.

### RECOMMENDATION:

*The IO Team strongly recommends against further reducing the size of the IO Team at future Olympic Games, ensuring instead that all professional specialties involved in the event organizer's doping control program are covered by qualified professionals. With regard to the logistical support, the IO Team is of the opinion that the number of staff made available for this purpose, particularly at the Olympic Games, represents the minimum level required to successfully perform the mission in view of the subject and scope of the mission.*

## BASIS OF THE MISSION

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In March, 2004, WADA received a formal letter of invitation from the IOC for WADA to send an Independent Observer team to Athens. The IO Team's mission operates within two parameters, namely the subject of the monitoring and the applicable standards to the monitoring.



## **1. Subject of the monitoring**

### **1.1 Overview of the doping control program**

A brief description of the background to the various phases of the doping control process at the Olympic Games would be helpful to readers. The IOC, as the event organizer is responsible for this process at the Olympic Games. The individual responsibilities making up the doping control process can be divided into the following four phases:

- (1) Sample collection,
- (2) Analysis of samples,
- (3) Test result management and
- (4) Appeals to CAS

The IOC outsourced parts of the doping control process, in particular the collection and analysis of samples, to ATHOC, more specifically to ATHOC Doping Control Services. ATHOC also provided the necessary staff, especially the doping control officers, as well as the laboratory specialists and the required equipment. However, the IOC retained a monitoring and control function over the sample collection and analysis phases. The latter is conducted for the IOC principally via the IOC Medical Commission (IOCMC). A basic distinction can be drawn between three different types of sample collection and analysis; urine testing, blood testing and breath testing for alcohol.

After the samples are collected, tests are performed on the urine and blood A samples to check for prohibited substances (or methods). This procedure is generally performed at the WADA-accredited laboratory in Athens (OAKA). If the analysis at the laboratory shows traces of prohibited substances and methods, or if the IOC learns by other means of an alleged anti-doping rule violation, the next step in the process is taken, i.e., results management, for which the IOC is exclusively responsible. This phase in turn consists of various steps. First of all, an initial review is conducted to determine whether sufficient evidence exists to indicate an anti-doping rule violation that would justify initiating formal proceedings against the individual in question (athlete, athlete support personnel, etc.). If this is the case, then the subsequent job of the Disciplinary Committee of the IOC (IOCDC) is to subsequently establish the facts of the case. This is done at a hearing to which the individual in question is invited. The B sample is also analyzed upon request by the individual in question. Once the IOCDC has determined the facts, it deliberates and then proposes a decision that is forwarded to the President of the IOC and the IOC Executive Board (IOCEB). The IOCEB subsequently makes the final decision in the case based on the facts of the case determined by IOCDC including the proposed decision.

The only way for the individual in question to contest the decision handed down by the IOCEB is to file an appeal with the Court of Arbitration for Sports (CAS). There is no provision for seeking legal redress in the national courts. The CAS is a court of arbitration legally domiciled in Switzerland. For the period of the Olympic Games the Ad Hoc Division of CAS is competent to decide the cases. The hearings took place in Athens. The adjudication body consists of a panel of three arbitrators chosen from a pool of 12 onsite arbitrators. The CAS is legally and organizationally independent from the IOC. Its decisions are final and binding and are only subject to very limited legal judicial review by the Swiss Federal Supreme Court.

### **1.2 The scope of the mission**

At first glance, the IOC's entire doping control program, i.e., all anti-doping measures at the Olympic Games, seems to be subject to observation by the IO Team based on the applicable sets of rules (see also description below). Article 5.7 Anti-Doping Rules of the International Olympic Committee applicable to the Games of the XXVIII Olympiad in Athens in 2004 (ADRIOC) reads as follows: "The IOC and ATHOC shall provide access to

Independent Observers who are responsible for and conduct the Independent Observer Program for Doping Control upon the occasion of the Olympic Games.” Article 5 (paragraph 10) reads: “The World Anti-Doping Agency...will appoint a team of international independent observers who will observe all aspects of Doping Control.” And finally, Article 9.3 (paragraph 3) makes reference to the IO program, stating that it is the responsibility of the IO Team to “observe all aspects of Doping Control at the Games and report on its observations.” This description is not entirely correct. Instead, it is more accurate to say that the mission of the IO Team is subject to many exceptions apart from the aforementioned self-limitation (see section I - Team).

- The appeals to the CAS in doping-related cases are part of the mission only on a basic level: in view of the confidentiality of these proceedings, members of the IO Team are permitted to attend proceedings and inspect case files only with the approval of the parties involved.
- The Doping Control Program is not limited to measures performed at the Olympic venues or the Olympic Village. Instead, the IOC claims the right to conduct doping controls “at any time or place” during the period of the Olympic Games (see Article 5.1 of the ADRIOC). However, conducting essentially worldwide control and verification of the doping control program is impossible for the IO Team for staffing and financial reasons alone. The mission of the IO Team therefore excludes any doping controls not performed at the competition venues in Athens or the Olympic Village. Such controls can, however, be indirectly included, i.e. they may be the subject of some monitoring, if they are deemed to be the basis for a more in-depth anti-doping measure by the IOC (e.g. hearing, sanctions, etc.).
- In addition, none of the anti-doping measures implemented by the International Federations (or other anti-doping organizations) are the subject of the monitoring assignment. This rule applies regardless of whether the doping control initiated by an International Federation (IF) is implemented during the period of the Olympic Games and regardless of which laboratory analyzed the doping sample. At most, the measures ordered by the International Federations can be included indirectly in the monitoring assignment. I.e. if they are the subject of an independent and further-reaching measure by the IOC (e.g. accreditation, withdrawal of accreditation).
- Finally, the monitoring assignment of the IO Team is also limited in terms of time. The subject of the IO Team’s monitoring is the period from the opening of the Olympic Games (August 13, 2004) until the end of the Games (August 30, 2004). This period therefore does not include the entire period of the Olympic Games as defined by the ADRIOC (July 30 – August 29, 2004), but instead includes only a segment of the Games. As a result, the entire pre-competition testing program is excluded from the monitoring assignment. The latter can be included indirectly as part of the subject of the IO Team’s monitoring/report in exceptional cases if the IOC issues further-reaching measures on the basis of this program in the period between August 13, 2004 and August 29, 2004 (DC hearing, IOCEB meeting, sanctions, B analysis, etc.) This time limitation on the IO mandate is expressed insufficiently in the applicable rules. The only reference can be found buried deep in the Doping Control Guide: “for the period of August 13 until the last results from the Games the (laboratory) results will also be provided to the Head of the Independent Observer.” Not only was the IO Team not informed about the laboratory results outside of this period; more importantly, the IO Team was also not invited to IOCDC hearings or meetings of the IOCEB, for example, if these were not conducted between August 13, 2004 and August 29, 2004. The same is true for the documentation concerning the notification and sample collection procedures.

### **1.3 Terms of reference**

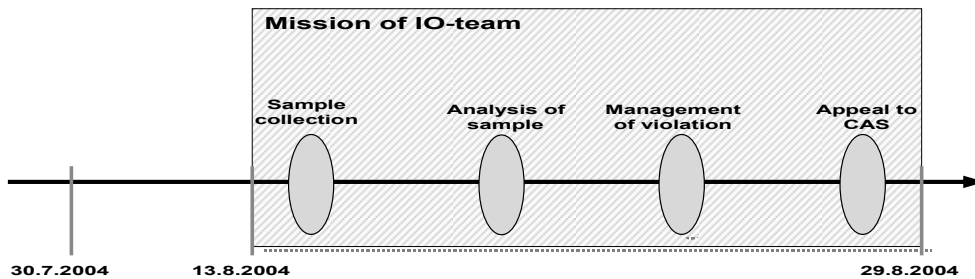
To the extent that the IO Team's scope of responsibilities comes into play, these activities are governed by Terms of Reference (Appendix 4), which set out the following key responsibilities:

- (1) With regard to the doping control process, the Independent Observer shall observe:
  - Procedures relating to the selection, notification and escorting of a competitor for doping control, including pre-event blood screening and subsequent results management;
  - Procedures where a competitor uses a substance for therapeutic use;
  - Sample collection procedures at the Doping Control Station;
  - Procedures where a competitor fails to comply or reports to the Doping Control Station later than required;
  - Post sample collection procedures at the doping control station;
  - Transportation and Chain of Custody; and
  - Process and procedures at the Laboratory, including analysis of A Samples (blood and urine).
- (2) With respect to the Test Result Management processes, the Independent Observer shall:
  - Receive copies of all athlete doping control forms (including those of control samples);
  - Receive copies of all TUE documentation and management;
  - Receive notification of all laboratory test results;
  - Receive notifications of all failures to comply;
  - Receive notifications of all new substances, unusual results and other irregularities;
  - Observe the analysis of B samples;
  - Observe the deliberations of the responsible doping control review committee when determining whether a potential doping offence has occurred and to provide relevant information upon request;
  - Receive a copy of the notification given to the competitor of all hearing(s);
  - Attend all hearings and receive copies of relevant documents including recommendations and decisions of sanctions imposed.
- (3) Observe any dispute hearing before CAS or any other proceeding if so permitted.
- (4) Have the right to obtain any additional or subsequent information relating to the doping control processes from the event in question.

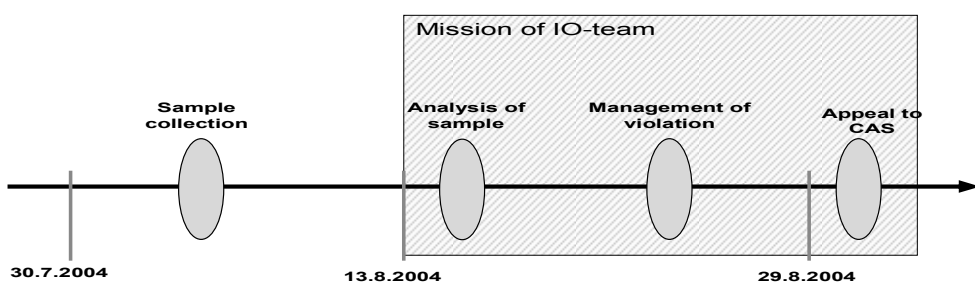
### **1.4 Comment**

The IO Team's monitoring assignment is complex: on the one hand, various parties are active in promoting doping-free sport during the defined time period of the Olympic Games; all of these organizations exchange information with one another and support anti-doping measures based on this information. On the other, the entire period of the Olympic Games is not the subject of the monitoring and reporting assignment, but only a segment of this period. For this reason, we must distinguish among a number of different ways that cases can be handled:

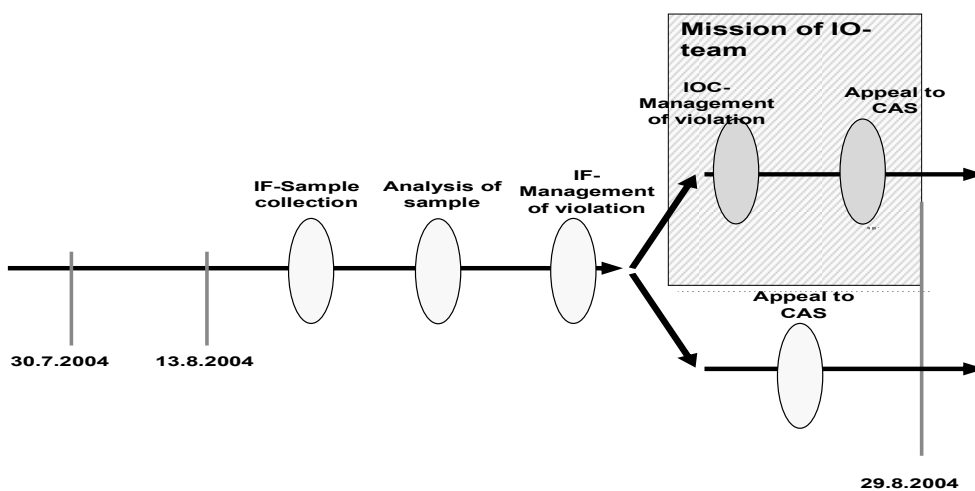
*Example 1 (IOC Standard Testing)*



*Example 2 (IOC Pre-Games Testing)*



*Example 3 (Anti-Doping Organisation Testing, e.g. IFs or NADOs)*



The IO Team believes that not including all measures initiated by the IOC during the Olympic Games period (particularly doping controls in the pre-Games period) appears questionable and should be reconsidered for the future. The IO Team is aware that the

doping controls ordered by the IOC in the period from July 30 – August 13, 2004 are performed by WADA when implemented outside of the Olympic venues. The public might therefore gain the impression that WADA is observing and monitoring itself, as the members of the IO Team are named by WADA, and the IO Team's reporting duty is primarily to WADA as well. The IO Team is also aware that only a sufficient level of independence of the IO Team is the basis for credible exercise of the Team's observation and reporting duties. Potential problems arising from a possible conflict of interest should be balanced against the advantages of a comprehensive mandate for the IO Team. However, the division of periods into those falling under and those not falling under the mandate of the IO Team appears artificial and probably insufficiently transparent in the view of the readers of the report.

After weighing the advantages and disadvantages of a limited monitoring assignment, the IO Team's opinion is that the justification in favor of a more comprehensive monitoring and reporting assignment, which includes the entire period of the Olympic Games is more convincing for the following reasons:

- The danger of a conflict of interest cannot be avoided by instituting a time limitation on the monitoring assignment. For example, the controls carried out by the WADA on behalf of the IOC are indirectly covered by the IO Team's mandate if the IOC bases a measure (laboratory analysis, hearing, disqualification) on such a control after August 13, 2004.
- In addition, the concrete danger of a conflict of interest is negligibly low. In other words, the members of the IO Team are independent of WADA both in staffing and financial terms; in particular, they are not subject to instructions by WADA as part of their mandate. This independence is also expressed to the public in various ways—on site, the WADA office and the IO office are situated in separate locations. WADA employees do not have access to the IO office without the approval of the IO Team. To the extent that WADA supports the IO Office in staffing issues, this assistance is primarily of a logistical and administrative nature. The WADA employees in the IO office also do not take part in the observations and do not have any responsibility for the content of the final report written by the IO members. Finally, the risk of a conflict of interest is less an actual danger and more a possible perception problem. The latter can be easily solved, for example, by using unique uniforms, logos and/or explanatory information material that the members of the IO Team could display and distribute on-site as part of their mission.
- Lastly, attention must be drawn to the fact that WADA does not carry sole responsibility for conducting the doping controls ordered by the IOC in the period from July 30 – August 13, 2004. On the contrary, the responsibility for all sample collections in the Olympic venues during the period of the Olympic Games lies exclusively with ATHOC Doping Control Services. Even if a conflict of interest were alleged with respect to the relationship between the IO mission and WADA, under no circumstances is there a conflict of interest between the IO Team and ATHOC Doping Control Services. The non-inclusion of the controls performed by ATHOC in the monitoring assignment cannot therefore be justified under any circumstances.

## **RECOMMENDATION:**

*The IO Team recommends that the IO Team's monitoring assignment for the Olympic Games be extended to the entire Anti-Doping Program in the future. At the very least the IO Team should be given an expanded monitoring assignment in the future. The IO Team, therefore, recommends describing this mandate more broadly within the relevant rules and regulations.*

## **2. The monitoring standards**

The primary duty of the IO Team is to observe, mostly by means of random selection, all anti-doping measures at the Olympic Games in Athens for compliance with the applicable rules and regulations.

In terms of the issue of whether and the extent to which the event organizer implemented the anti-doping program in compliance with the applicable rules, the IO Team believes that formal monitoring standards should be an additional, but not the only, measure applied. A contribution toward strengthening confidence, particularly of athletes, in the doping control program can only be made by the IO program if the rules and regulations are analyzed and also interpreted in view of their purpose. The fight against doping is not an end in itself, but instead serves only to protect athletes and their performance. That is why athletes must be at the heart of all measures in the fight against doping. Because rules and regulations always represent an abstraction of reality, they can only partially describe the full spectrum of possible events. The application of rules and regulations to concrete situations therefore always opens up leeway that must be acted on and interpreted within this context. The IO Team has therefore considered highly significant as part of its mandate the question of whether the event organizer has followed the regulations in an athlete-friendly manner and has taken sufficient account of those interests and concerns of athletes that deserve protection.

While the IO Team first and foremost has a responsibility to assess what it has observed against the requirements of the regulations in force, it has also chosen to make additional comments that relate to the overall efficiency and effectiveness of the doping control process that may prompt review of some elements of the regulations in force.

### **2.1 Overview of the rules and regulations in force**

The doping control program is governed by the following rules and regulations:

- the Olympic Charter;
- The ADRIOC. For the first time in the history of the Olympic Games, the ADRIOC is based on the World Anti-Doping Code (WADC) accepted by the World Anti-Doping Conference in Copenhagen held from March 3 – 5, 2003 and endorsed by the IOC at its 115th session in Prague in July 2003 and came into force in January 2004. The IOCEB is responsible for the ADRIOC because, according to the Olympic Charter, this committee has the authority to establish anti-doping policies, guidelines and procedures. The purpose of the ADRIOC is to implement the provisions of the WADC for the Olympic Games. In line with the requirements in the WADC, its provisions are sometimes included in the ADRIOC by wording or by content. WADA worked closely with the IOC to assist it in the re-writing of the new Anti-doping Rules applicable to the Games in Athens, to be in compliance with the new WADC.

- The ADRIOC in turn references other sets of rules and regulations. These include the International Standard for Testing, the List of Prohibited Substances and Methods published by WADA, the International Standard for Therapeutic Use Exemptions, the International Standard for Laboratories and the provisions applicable for appeals to the ad hoc division of the Court of Arbitration for Sports (CAS) for the Olympic Games. Moreover, the rules and regulations of the International Federation (IF) may also be applied. However, the latter rules are only used if and to the extent that the ADRIOC expressly permits the leeway for these regulations to be applied.

According to Article 5.3 of the ADRIOC, the local organizing committee for the Olympic Games in Athens (ATHOC) is obliged to prepare an IOC-approved Doping Control Guide that governs all of the technical details of the Doping Control Program at the Olympic Games. This Doping Control Guide was prepared in June and distributed to the National Olympic Committees (NOCs), the International Federations (IFs) and to WADA and the IO Team in July.

## **2.2 Observations**

### **• Legal quality of the Doping Control Guide:**

The legal quality of the Doping Control Guide is ambiguous at first glance. The foreword to the Doping Control Guide in Article 1.3 reads as follows: "The Doping Control Guide is the contribution of ATHOC Doping Control Services to the better understanding of the doping control program and the procedures applicable during the Games by athletes and athlete support personnel. The Guide constitutes in essence a technical document which provides information and detailed description of the doping control procedures so as to familiarize all parties involved with the Program." This description leads to the conclusion that the Doping Control Guide does not contain any regulations on the implementation of ADRIOC, but instead is solely a (non-binding) source of information. A contrasting view is presented firstly by the letter addressed to the NOCs and WADA, among others, by Director General of the IOC Urs Lacotte dated June 4, 2004. This letter reads: "Please note that the Athens 2004 Doping Control Guide, which will complement the IOC Anti-Doping Rules..." The message by the Chair of the IOC Medical Commission printed in the Doping Control Guide contains a similar statement in Article 1.2. This Article indicates that the doping control procedures contained in the Doping Control Guide "will be scrupulously followed to ensure clean Games." In addition, the binding nature of the Doping Control Guide is also indicated by the fact that the Entry Form for the Olympic Games, which is signed by every single athlete, expressly states that the athlete has to abide by the Doping Control Guide. Finally the binding character of the Doping Control Guide is evidenced by the fact that the Guide governs numerous technical details, the bases for which are not contained in the ADRIOC itself (e.g. see appendix 2 of the Doping Control Guide concerning sampling procedures). The Doping Control Guide is therefore not simply a descriptive document, but instead covers more ground, at least in part, in terms of content than the ADRIOC. Therefore, every indication points to the fact that the Doping Control Guide is a complementary set of rules and regulations to the ADRIOC and is binding for athletes and athlete support personnel.

This is not the first time that the problem of the legal quality that should be attributed to the Doping Control Guide has been discussed; the Sydney Report (p. 29) and the Salt Lake City Report (p. 50 et seq.) already referred to a similar problem. According to the Sydney Report: *"We recommend that for the future events the Doping Control Guide (or its equivalent) be adopted as the valid text*

*for that event, on the understanding that while the Guide may contain more detailed procedures than those set out in the Olympic Movement Anti-Doping Code, it will not be in contradiction or conflict with the latter.”*

- **Regulatory system:**

- **Feminine gender:** The convention of using only one gender in relation to any physical person in legally binding texts has become the standard internationally for purposes of improved readability. Usually this is the masculine gender. For reasons of political correctness, however, common practice is to indicate in the text that these terms should be understood to include females, as well as males. For example, this convention is expressly stated in a note to the Olympic Charter and in the Preamble to the ADRIOC. Unfortunately, the Doping Control Guide lacks a comparable provision.
- **Different levels:** The legal basis of the entire doping control process is rooted in three layers of regulations (Olympic Charter, ADRIOC, Doping Control Guide). The ADRIOC, as well as the Doping Control Guide, are in turn further broken down into various levels by way of appendices that are published in the annex to each of these documents. In addition, both the ADRIOC and the Doping Control Guide contain multiple references to documents outside of these sets of rules and regulations. The IO Team believes that this type of regulatory system is unnecessarily complicated as it is convoluted and substantially impedes readability. The IO Team therefore recommends that in the future a single, clearly structured document be drafted in addition to the Olympic Charter that comprehensively and clearly describes the entire doping control process.

- **Consistency:**

- The Doping Control Guide may contain more far-reaching provisions covering regulations for implementation of the ADRIOC, but the former may not contradict the grounds for its own authority. However, it does just that in some places. For example, the Doping Control Guide (Article 9.2), states that the Disciplinary Commission (IOCDC) deployed by the IOC President “shall deliberate and decide” on cases of adverse analytical findings or alleged anti-doping rule violations. The Anti-Doping Guide further states that “as soon as the (IOCDC) has pronounced its decision, it shall inform immediately the athlete, or other person, and all parties concerned.” Above and beyond this, the Doping Control Guide stipulates that appealing an IOCDC decision to the CAS is permitted. In contrast, Article 7.2.11 seq. of the ADRIOC pronounces that the IOCDC shall—after the hearing—“promptly communicate its report to the IOC President and the IOC Executive Board. Based on the report of the IOCDC, the IOC Executive Board shall decide upon the case.” Finally, Article 12.2 of the ADRIOC affirms that decisions by the IOCEB can be appealed to the CAS.
- The ADRIOC describes its provisions as “Rules” and the WADC as a “Code.” These terms are not used consistently throughout, however. For instance, the Preamble reads as follows: “unless specifically directed in the Code, the Person responsible for the administration of the provisions thereof shall be the IOC Medical Director.” The correct wording should be “unless specifically directed in the Rules ...”
- Article 4.3.3.1 of the ADRIOC makes reference to “...appeals as provided in Article 13.” This is a typo; the text should instead contain a reference to Article 12 of the ADRIOC.



- **Completeness:**

- Results management, particularly conducting hearings and issuing sanctions, for doping tests that are performed by an anti-doping organization other than the IOC are exclusively the responsibility of the other organization. Article 14.2 of the ADRIOC stipulates the following: "Subject to the right to appeal provided in Article 12, the testing, TUEs and hearing results or other final adjudications of any signatory, which are consistent with the Code and are within that Signatory's authority, shall be recognized and respected by the IOC." This regulation is material for the Olympic Games in particular, if during the period of the Games, an IF issues a sanction against an athlete based on a doping control initiated by it that led to an anti-doping rule violation. The question then arises about how such a decision affects the eligibility or ineligibility of the athlete at the Olympic Games. The IOC must therefore rule on the eligibility or ineligibility of the athlete with regard to the Olympic Games in accordance with Article 8.2. of the ADRIOC. The issue of who is entitled to make the decision about recognition and the resulting consequences (e.g., Director General, Executive Board, President, IOC Medical Director) is still open. The ADRIOC does not contain an explicit rule on this.
- The ADRIOC stipulates that proceedings against an athlete can be initiated alone on the basis of an adverse analytical finding of an A sample. The provisions of the ADRIOC do not prohibit sanctions against the athlete (e.g., disqualification) before the results of the analysis of the B sample are available. Examples of this occurred during the Games. In this case, the rules and regulations should include provisions on the course of action to take if the results of the analysis of the B sample do not confirm the results from the A sample. Of course, another possible solution is to wait to impose the sanctions (but not necessarily to conduct the hearing) until such time when the analysis of the B sample is available or when the athlete declines an analysis of the B sample. This approach should also be included in the ADRIOC.

#### **RECOMMENDATIONS:**

*The IO Team recommends the following:*

- *The legal status of the Doping Control Guide should be clarified in unambiguous terms. Specifically, the question of whether it is simply a non-binding source of information or a legally binding set of rules and regulations should be settled.*
- *Moreover, care should be taken such that the content of the ADRIOC and the Doping Control Guide is not contradictory, the texts are worded consistently and the entire doping control process is described (including the accreditation process and the procedure to be followed if the analysis of the B sample does not confirm the results from the A sample).*
- *Furthermore, the IO Team recommends that the complicated regulatory system be reconsidered. Is it really necessary to regulate the anti-doping program in such a convoluted manner, i.e., at three regulatory levels, including various appendices?*
- *The regulations applicable should always contain a note about gender-neutral wording.*

## EXCHANGE OF INFORMATION AMONG PARTICIPANTS

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### 1. Provision of information by the IO Team to the Event Organizer

The instruments provided to the members of the IO Team for the purpose of fulfilling their mission are limited. The members' duty is to observe and to report, but not to interfere with the operation of the event. The question then arises whether this limited set of tools is sufficient in view of the expectations of athletes, sport and the general public. How should the IO Team proceed if in the course of its observations it receives concrete indications of illegal manipulation by athletes? Would it be considered unacceptable interference with the doping control process if the IO Team were to ensure that this information is forwarded to the event organizer? Another open issue is whether the IO Team can and should inform the event organizer about major irregularities during the Games so that the organizer can, if possible, modify or better implement the doping control program.

The IO Team is of the opinion that there is a need to expand the set of tools available to the IO Team depending on the situation. Of course, the IO Team is aware that any involvement in anti-doping operations exceeds its mandate to independently observe and report. The IO Team believes, however, that in some cases a misunderstood passivity can damage its fundamental objective to strengthen confidence in, and raise the credibility of, the event organizer's anti-doping activities more than a considered and appropriate intervention. For this reason, the IO Team should be able to intervene wherever the goals of the IO mission would otherwise be jeopardized. Still, intervention by the IO Team must comply with the principle of proportionality and must therefore be limited solely to the distribution of information. The decision on how to respond to any information provided must therefore in any case remain exclusively the responsibility of the event organizer.

#### **RECOMMENDATION:**

*The IO Team believes that in cases where its members obtain information as part of their mission about an (imminent) anti-doping rule violation, the IO Team must be permitted to forward this information to the body responsible for the event organizer's anti-doping program. In addition, the IO Team believes that consideration should be given to enable the Team to exchange information with the body responsible for the doping control program to allow the latter to react to serious irregularities. The rules describing the mandate of the IO mission should explicitly deal with these questions and, in particular, define the competent authority to which the IO Team will forward the information.*

### 2. Provision of information to the IO Team

According to Article 5.7 of the ADRIOC, the IOC and ATHOC shall provide access to Independent Observers who are responsible for and conduct the Independent Observer Program for doping control upon the occasion of the Olympic Games.

- **Provision of information in the lead-up to the Games:**

The obligation to distribute or provide information applies not only during, but logically also prior to the Olympic Games, so that the IO Team can thoroughly prepare for the monitoring assignment. The exchange of information before the Olympic Games was satisfactory for the most part. The only situation of particular note here was the fact that the Doping Control Guide was prepared relatively late by ATHOC (June 2004) and distributed to the members of the IO

Team at a time when it was almost too late to study the operational details of the anti-doping program in any depth. Some of the members of the IO Team arrived in Athens a few days before the official start of the mission to prepare. They then drove around the Olympic venues to locate the relevant doping control stations. Finding the doping control stations was not always easy, particularly in the larger facilities. The facilities were sometimes rambling and byzantine, and the signage was not always adequate. The on-site volunteers were helpful, but were not always in the position to provide useful information concerning the doping control stations. A map with markings indicating the doping control stations for the various venues and their entrances would have been helpful.

- **Provision of and granting of access to information during the Games:**

The office of the IO was given accreditation similar to that of the members of the IOCMC in order to enable it to fulfil its mission in conditions similar to those responsible for the anti-doping process in Athens. This ensured that the IO Team could, for the most part, observe all anti-doping measures. In addition, the IO Team also had excellent transportation services, having access to a group of T2 drivers, which made the task and busy schedule much easier to carry out.

The exchange of information and cooperation between the IOC and ATHOC on the one hand, and the IO Team on the other, during the Olympic Games was direct, thorough and predominantly carried out in a friendly and very cooperative manner. Only in exceptional cases did the IO Team need to search out the information required to enable it to accomplish its task. However, even in these few cases, the IO Team never felt or thought that information relating to the implementation of the anti-doping program was deliberately withheld. This is true for all participants in the anti-doping program, particularly the IOC President, the IOCEB, the Medical Director of the IOC, the IOCDC, the laboratory, ATHOC Doping Control Services, CAS and generally also the TUE Commission. The IO Team therefore acknowledges with gratitude the unconditional support for the work of the Office of the Independent Observer provided throughout the Games by Dr. Jacques Rogge, President of the International Olympic Committee; Professor Arne Ljungqvist, Chair of the IOC Medical Commission; Dr. Thomas Bach, chairman of the Disciplinary Commission; Dr. Patrick Schamasch, Medical Director of the IOC; and Professor Ken Fitch, chair of the IOC TUE committee. In addition, the cooperation by ATHOC, in particular from Dr. Christina Tsitsimpikou, Manager of ATHOC Doping Control Services Program, and of Dr. Costas Georgakopoulos, head of the OAKA Doping Control Laboratory, was at all times gratefully received. At the doping control stations, the IO Team always met a warm welcome and constructive cooperation in particular by the designated venue managers. Thanks are expressed to all those people.

**RECOMMENDATION:**

*The IO Team recommends that the rules and regulations that form the basis of its monitoring assignment be distributed to the members of the IO Team in a timely manner at least three months before the start of the mission and that a map be made available to the IO Team by the organizing committee, featuring markings indicating the locations of and entrances to the individual doping control stations.*

## **MEDIA**

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WADA held a media conference on 12 August 2004 at the main Media Center. The Chair of the IO Team, together with its members, was introduced and general information on the IO Program and mission in Athens provided. During the course of the Games the IO Team, through the Chair, received a number of media inquiries regarding its task at Athens. Appropriate answers were given in accordance with the confidentiality agreement. It is noted that WADA also had an Executive Office at a separate venue at Athens, and general questions relating to anti-doping issues were referred to that Office, which had no part to play within the IO Team.

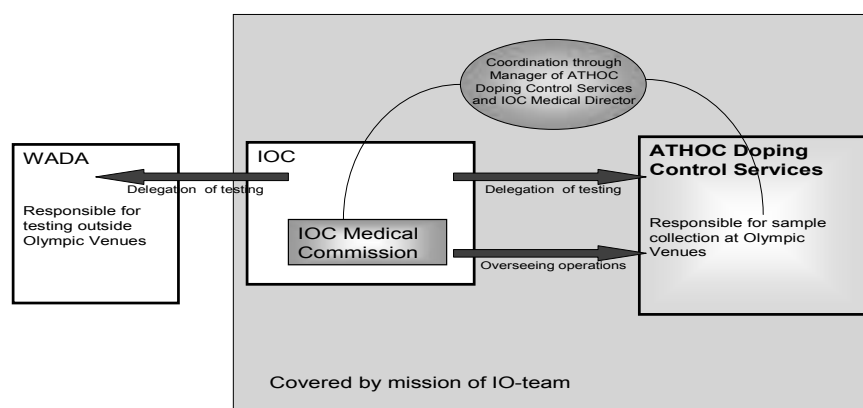
## II. SAMPLE COLLECTION

### OVERVIEW OF THE DOPING CONTROL PROCESS

#### 1. Basic organizational principles

The IOC claims the right to subject all athletes to controls during the period of the Olympic Games regardless of where they are staying. The IOC commissioned the Athens Organizing Committee (ATHOC), and more specifically ATHOC Doping Control Services, with the planning and implementation of these controls. ATHOC is the exclusive service provider for all controls at all Olympic venues. The staff required to implement the process are provided by ATHOC Doping Control Services. The IOC reserves the right to track and monitor the controls performed by ATHOC; within the IOC, this task is performed by the Medical Director and the Medical Commission (IOCMC). The IOC Medical Director and the ATHOC Doping Control Services Program Manager provide the link between the IOCMC and ATHOC Doping Control Services.

Athletes staying or training at non-Olympic venues may be tested by WADA and WADA's contracted service providers with a letter of authority by the IOC. However, these controls did not fall under the mandate of the IO Team (see I. 1.2 above).



There were three different types of collection procedures, i.e.

- the urine sample collection procedure,
- the blood sample collection procedure, and
- the breath testing procedure for alcohol.

#### 2. Legal basis

The legal foundation for the performance of doping controls is based on the ADRIOC and other documents other than the ADRIOC that reference the ADRIOC. These other documents include in particular the International Standard for Testing. The ADRIOC also references the IF rules and regulations in some cases, for example, regarding all questions relating to doping controls for animals competing in sports (Article 15). The implementation regulations for sample collection are located in Appendix 2 to the Doping Control Guide. In the opinion of the IO Team, the rules and regulations (ADRIOC and the

Doping Control Guide) describe the urine sample collection procedure accurately and completely for the most part. This is not true to the same degree for blood sample collection. In this context, Appendix 2 of the Doping Control Guide reads as follows: "Note: At the time of printing this Guide, the following blood collection procedures are planned. It is possible that there will be slight variations from the procedures outlined." The IO Team recommends that complete and binding regulations be put into place in a timely manner for all sample collection procedures.

### **3. Provision of information to athletes and athlete support personnel**

Similar to the IO Team in Sydney (see Report p. 26), the IO Team for the Athens Games was also struck by the number of competitors who appeared not to be sufficiently familiar with the sample collection procedure. This was particularly true for the blood sample collection procedure, but in some cases athletes were also relatively poorly informed about the urine sample collection procedure. The Sydney Report recommended, therefore, that "NOCs ensure that all their registered competitors are familiar with doping control procedures." The IO Team for the Athens Games also expressly concurs with this recommendation.

Moreover, the IO Team for the Athens Games believes that this is also the responsibility of the IOC as an anti-doping organization. Indeed the WADC in Article 18.2 explicitly states: "Each Anti-Doping Organization should plan, implement and monitor information and education programs. The programs should provide Participants with updated and accurate information on at least the following issues: substances and methods on the Prohibited List, Health Consequences of doping, Doping Control procedures and Athletes' rights and responsibilities."

A key information tool (but not the only one - see above) for the IOC is the Doping Control Guide prepared by ATHOC and approved by the IOC. Among other things, this document serves to provide everyone (athletes and their entourages) with all the information they need concerning doping control procedures. Of course, this objective can only be met if the Doping Control Guide is prepared early and distributed to the relevant target group. This did not occur this time—the Doping Control Guide was not prepared until July and was not distributed until just a few weeks before the start of the Games. For this reason, the purpose of this document as an information tool was not actually fulfilled. The IO Team is not aware of exactly how many people received copies of the Doping Control Guide. The observations of the IO Team, however, indicate that the Doping Control Guide was probably not very widely distributed. For example, the IO Team provided members of the IOCMC or team physicians with copies of the Doping Control Guide on several occasions after they stated that they did not have their own copies. Only rarely did the doping control stations have copies of the Doping Control Guide displayed for inspection. Finally, the IO Team would like to point out that the Doping Control Guide was distributed before the opening ceremonies at the IOCMC-organized team physicians meeting on August 12, 2004, but unfortunately, too few copies, by far, were available for all of the meeting's participants. It must be noted that only two physicians from each delegation were invited, and some doctors therefore did not get copies of the document.

The above-mentioned team physicians' meeting could be another key information tool for the anti-doping program. The fact that it is usually the team doctors who accompany athletes to the doping controls and are therefore key suppliers for information distribution is reason enough. Unfortunately, insufficient advantage was taken of this opportunity. In any case, doping issues played only a very minor role in the team physicians' meeting other than an extended discussion on Therapeutic Use Exemption matters. Practical information on doping control procedures, particularly regarding blood

sample collection, was not provided. Not attending—although his attendance was announced—was the Medical Director of the IOC, who is in fact the person responsible for the administration of the doping control program to the extent that the ADRIOC does not stipulate otherwise. The same is true for the manager of Athens Doping Control Services, who was also not available to the team doctors to answer queries. More extensive information would have been expected in particular with regard to blood sample collection, especially because the description of this procedure in Appendix 2 of the Doping Control Guide begins with a note indicating that the blood controls in practice are performed differently than stipulated in the rules and regulations. The IO Team therefore recommends that in future the doping control process be brought to the forefront, at least at the team physicians' meeting at the start of the Games, and that team doctors be provided more practical information about control procedures, particularly for blood controls on the different sites. The information kit that was distributed at the team physicians' meeting included a leaflet on nutrition for athletes, which also included a section on supplements and doping issues, as well as a short summary of the doping control procedures at the Athens Games. Unfortunately, even here the explanations regarding the IOCDC were incorrect, just as in the Doping Control Guide.

**RECOMMENDATION:**

*The IO Team recommends that in future, new strategies be developed for timely and comprehensive provision of information to athletes and athlete support personnel that satisfy the requirements of Article 18.2 of the WADC. This applies in particular to the blood collection procedure. A series of concrete options is described in the Appendix along with the explanation of the urine sample collection procedure and the blood collection procedure.*

#### **4. In-competition test only**

Usually a distinction is drawn between in-competition and out-of-competition testing (see for example Article 5 of the WADC). An in-competition test is defined in the annex of the WADC as a test where an athlete is selected for testing in connection with a specific competition, i.e. a single race, match, game or single athletic contest. In contrast, Article 5.1 of the ADRIOC stipulates "that the Period of the Olympic Games shall be treated as an in-competition period" and that this period "starts on July 30, 2004 and runs up until and including the day of the closing ceremony of the Olympic Games, namely August 29, 2004". The result—from the point of view of the ADRIOC—is that all of the tests ordered by the IOC are considered in-competition tests, regardless of where they are performed during the period from July 30, 2004 to August 29, 2004. As a rule, the WADC provides leeway for such a broad interpretation of the term, because the WADC definition is applied only "unless provided otherwise in the rules of an International Federation or other relevant Anti-Doping Organization."

The broad definition of the term "in-competition testing" raises a number of questions:

- If all controls during the period of the Games applicable to athletes participating in the Games are deemed in-competition tests, regardless of where they are conducted, the question arises of how the IOC's competencies should be distinguished from those of other anti-doping organizations. For example, Article 15.1 of the WADC states the following: "However, only a single organization should be responsible for initiating and directing testing during an event. At international events, the collection of doping control samples shall be initiated and directed by the international organization which is the ruling body of the event (e.g., the IOC...)." This could give rise to the impression that other anti-doping organizations (IFs or National Anti-Doping Organizations, i.e. NADOs) are not authorized to conduct doping controls on athletes participating at the

Olympic Games in the period from July 30, 2004 to August 29, 2004. However, this is not true: on the contrary, it was apparent to the IO Team that a good deal of effort had been made to coordinate with IF and NADO programs to ensure potential coverage of all athletes which served to enhance the tough position taken by the IOC.

- The expansion of the term “in-competition test” also has consequences for the application of the List of Prohibited Substances and Methods; the 2004 Prohibited List by WADA distinguishes between substances and methods prohibited in competition, and substances and methods prohibited in and out of competition. The former is, of course, more extensive than the latter. This could theoretically lead to a situation in which an athlete who competes in a sport in which alcohol is forbidden in competition could be violating an anti-doping rule by celebrating winning a medal with friends by drinking alcohol and subsequently being required to undergo a doping control.
- Finally, attention is drawn to the issue that the broad definition of the term “in-competition” should not obscure the fact that there are still two types of tests, i.e., those that require whereabouts information to locate the athletes and those that do not require this information. The IOC uses the terms “pre-competition test” and “post-competition test” for the two types of tests. Whereabouts information is basically required for all pre-competition tests; in other words, tests that are not conducted immediately after a competition. Because these tests can only be performed effectively if the whereabouts information is exact and up-to-date, both the ADRIOC and the NOCs stipulate extensive obligations for the athletes, as well. Article 5.5 obliges the NOCs to provide the IOC with detailed information about the intended location of their athletes during the period of the Olympic Games no later than July 30, 2004. Moreover, the NOCs expected to monitor and manage this provisional whereabouts information during the period of the Olympic Games, specifying on a daily basis the locations and times where the athlete will be residing, training and competing. Finally, the athletes themselves are obliged to update this information as necessary so that it is current at all times.

Most of the pre-competition tests were conducted in the period up to August 13, 2004. Given that the observations of the IO mission were limited to activities post-August 13, it is not possible to draw conclusions on the nature and effectiveness of these tests. It is clear from at least two well-publicized cases, however, that the IOC was prepared to act quickly where the demanding requirements of athletes and delegations to provide whereabouts information were not met.

## **5. Selection of athletes**

### **5.1 Overview**

The ADRIOC and the Doping Control Guide provide for various options for selecting athletes for doping controls:

- **Selection on the basis of finish:**

For the selection on the basis of finish, the ADRIOC distinguishes between team sports and non-team sports. For the latter, Article 5.6 of the ADRIOC specifies, to the extent that the IF and the Olympic Committee have not agreed otherwise, that all athletes finishing in the top four places in the competition must be tested. Furthermore, all athletes who set an Olympic or world record must also be tested. For team sports, the ADRIOC requires that during the preliminary



rounds, the quarter and semifinals, one or two athletes will be selected at random from at least 25 percent of the competitions. In addition, a minimum of two athletes will be selected at random from each of the top four finishing teams. The most important criterion for whether a sport is considered a team or a non-team sport is stated in the appendix to the ADRIOC, according to which a team sport is a sport in which the substitution of players is permitted during the competition, e.g., a single race, match, game or single athletic contest.

- **Random:**

According to Article 5.6 of the ADRIOC, at least one athlete must be selected at random for a doping control in the lead-up competitions or the final.

- **Target testing:**

Lastly, the IOC can also use target testing of individual athletes or teams in accordance with Article 5.6 of the ADRIOC.

## 5.2 Observations

- **General:**

The IO Team does not take serious issue with any elements of test planning as it unfolded from August 13. In particular, the ADRIOC-specified requirements were met by the IOC for test distribution according to selection by finish and by random. The assumptions made for test distribution included the risk level of the sport and the circumstance that controls are conducted in all phases of the competition schedule. This is in line with the requirements outlined in Article 4.5.1 of the International Standard for Testing. Questions did arise on some points, however:

- The IO Team is aware that the WADC requires samples to be tested for the full range of prohibited substances and methods. In practice, this requirement is not always met. This was particularly true for the Olympic Games where the volume of samples collected depended on the actual test being analyzed. In view of this standing practice, it was not clear why testing for Erythropoietin (EPO) was carried out in the full range of sports, and the utility of such tests in, for example, archery, might be further examined.
- A recommendation in the Sydney Report (p. 29) was that "more consideration be given to increasing the number or percentage of competitors in team sports or team events..." Based on this recommendation, the number of doping controls was in some cases increased considerably:

	Baseball	Basket ball	Beach Volleyball	Football	Handball	Hockey	Softball	Volley ball
Sydney	30	68	36	102	64	58	20	68
Athens	45	89	61	268	69	65	23	89

Despite this increase, the IO Team still believes that that the concentration of testing in team sports is still considerably less than in individual sports. To some extent, that may be inevitable, but at the same time we wonder whether or not testing only two players from medal-winning squads of perhaps 15 players provides sufficient coverage.

- **Target testing:**

Target testing has proven to be an essential requirement if testing programs are to be effective in detecting athletes who may be using prohibited substances and/or methods and deterring those who may contemplate it. For this reason, the IOC took advantage of the target testing option—including in the period from August 13 – August 29, 2004. Target testing is a quick response tool that allows for testing when suspicious circumstances appear to exist. The target group for target testing in Athens included athletes who abandoned a competition or who dropped out of the competition because of disqualification. This approach corresponds to Article 4.6.2 of the International Standard of Testing. The use of target testing led to the discovery of a series of anti-doping rule violations at the Games. The basis for successful target testing such as this is the collection and processing of the relevant information (see also the list in Article 4.6.2 of the International Standard of Testing). This also includes reliable, anonymously submitted tips—at least in Athens, which led to the discovery of a series of anti-doping rule violations and, among other measures, to the revocation of two gold medals. The better the available information is utilized, the more successful target testing will be. The experience gained at the Olympic Games in Athens indicates to the IO Team that it is necessary for the Event Organizer to establish an infrastructure on-site (and to publicize this fact) at larger events, such as the Olympic Games, that would accept the relevant information (including anonymous tips), verify its plausibility and initiate the appropriate further measures.

- **Team sports:**

The way in which the athletes to be tested are chosen in team sports varies considerably depending on the team sport. The ADRIOC and the Doping Control Guide do not contain any specific instructions in this regard. They only require that the athletes be selected at random and (imply) that this refers to athletes on the team. Athletes who were not selected in the squad for a particular game, and therefore are not members of the team, cannot be chosen to undergo a doping control. In addition, at least the Doping Control Guide references the other applicable rules and regulations of the IFs. The IFs have taken advantage of the leeway offered them by the ADRIOC and the Doping Control Guide in very different ways. Some team sports select athletes by drawing lots directly after the end of the game, whereas others do so during the game. Both approaches have their advantages, as well as disadvantages. If lots are drawn after the end of the game, provisions must be made to ensure that the athletes do not leave the field of play until the athletes chosen for doping controls have been determined. An additional risk is that the selection process could be subject to error due to the hectic atmosphere at the end of a game.

*Example:* In volleyball, the athletes to undergo controls are selected by drawing lots (see Article 1.6.2 of the FIVB Medical Regulations). The drawing of lots is performed immediately upon conclusion of the game. To this end a representative of the IF places chips corresponding to the uniform numbers for each of the eligible athletes in a box or bag. Then the team representative draws the numbers of chips corresponding to the number of doping controls imposed on the team. Players are not allowed to leave the court area until the draw is completed. The IO Team observed an instance where the hectic atmosphere led to the bags being switched—the relevant team representatives therefore drew chips from the wrong bag. This resulted in an incorrect selection and a subsequent need to locate the correct athlete who had already urinated, showered and changed and was relaxing in the player lounge. The question arises, in view of the significant fault of the officials, whether the player should still have to go through the process.

- If lots are drawn for athletes during the game, provisions must be made to ensure that the selection remains a secret. This is all the more essential the earlier the athletes to undergo testing are determined. An additional risk is that an athlete could be injured during a game or sent from the field of play and therefore under certain circumstances would no longer be available for a doping control at the end of the game, because he or she would have already left the competition venue to obtain medical assistance. This example might require reserves to be drawn.

*Example:* In basketball, athletes that have to undergo doping controls are selected by drawing lots (Article 6.7.1 of the Internal Regulations). The rules provide that the draw is typically (but not necessarily) done approximately 5 minutes prior to the end of the game and is carried out at the site of the competition. (It has been observed by the IO Team, however, that the draw was done in most instances at half time in the Doping Control Station.) According to the rules the team doctor or team officials will be advised at the beginning of the game or at the latest during half-time that a doping control is going to take place. Five minutes prior to the end of the game the IF representative will present the team doctor (or team official) with a bag and detachable tokens, each corresponding to a player number. The team doctor or official will place the tokens in the bag and draw a number of tokens equal to the number of players to be tested. If during the game a player sustains a serious injury necessitating immediate hospitalization, his number shall not be taken into consideration and placed into the bag. If such an injury occurs after the draw, another draw shall be held to replace the player in question who had been previously selected. In case of doubts regarding the seriousness of the injury, the representative of the Medical Council of FIBA shall rule on the matter.

- Among other factors, the fact that some draws may not be performed solely by an IF representative, but instead with the participation of a representative of the relevant team, complicates the draw. If the draw is then also performed during the game and not at the competition site, there is a danger of a substantial intervention in the course of the game. If, for example, the draw must be held with the participation of the team doctor, the question arises of whether their primary skills are not likely to be required by the team.

*Example:* In football, the athletes to undergo doping controls are selected by drawing lots (Article 3 of the Doping Control Regulations for FIFA competitions and out-of competition testing). A minimum of 2 players shall be tested from each team. Four players shall be drawn from each team by lots. The first two players drawn shall be tested and the other two shall replace them in the case of injury. The players to be tested shall be drawn by lots by the FIFA DCO in the doping control room at half-time in the presence of an official representative from each of the competing teams. For the draw, the respective tags containing the numbers of the eligible players are placed in two different bags, one for each team. Then he draws four numbers out of each bag without looking at them and places each of them in separate envelopes marked one to four. The bags with the remaining tags are placed in two separate sealed envelopes. Finally, the eight envelopes are sealed and signed by the FIFA DCO and the respective team representatives and stored in a safe place. Fifteen minutes prior to the end of the game, the FIFA DCO shall open the envelopes marked one and two of each team in the doping control room in the presence of the team representatives.

The IO Team believes that there is no sport-specific difference among the team sports that would justify the broad range of selection procedures applied. In addition, it appears to the IO Team that most of the procedures used in practice require improvement. It is, of course, the prerogative of each sport to develop a process that best meets their needs as they see them. However, the IO team is of the opinion that systems are available whereby draws can be made prior to or, at the latest, by half-time in a match, in a less rushed atmosphere, and which will preserve the secrecy and integrity of the process.

**RECOMMENDATIONS:**

- *The event organizer should set up an office for receiving information about possible doping rules violators from athletes or athlete support personnel. The duty of this office is to check the information (which can also be anonymous) for plausibility and to initiate further steps (e.g., target testing).*
- *The IO Team believes that the concentration of testing per game in team sports is still considerably less than in individual sports and this situation needs to be reviewed.*
- *The IO Team calls for WADA to cooperate with the event organizers and the IFs to develop a (non-binding) model of best practice for drawing lots for athletes in team sports that meets the criteria of fairness, equal opportunity, confidentiality, security and non-interference optimally in the course of sporting events and that the IF can use for guidance.*

## URINE SAMPLE COLLECTION

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### 1. Overview

Once certain athletes have been selected to undergo doping controls, they must be notified that they must provide a sample after the end of the competition. Athletes must as a rule report to the doping control station within an hour of notification. During this time they are escorted by an official. At the doping control station, the competitor is required to provide a urine sample measuring 75 or 110 milliliters, depending on whether the sample will also be analyzed for EPO or not. The competitor transfers this to two bottles (the "A bottle" containing two-thirds, and the "B bottle" containing the rest). The bottles are then sealed and packaged. The integrity of the process and the security of the samples are of prime importance to ensure competitors' confidence in the process—i.e., the knowledge that all competitors are treated equally, that nobody can tamper with the sample and that the sample is indeed that of the competitor.

### 2. Observations

#### 2.1 Process observed

The IO Team has turned its attention in particular to the notification process and the handling of samples, because the factors critical to ensuring athlete and public trust in the doping control program are that all athletes be treated equally, that manipulation be ruled out and that the security of the samples be guaranteed. With a team numbering eight to nine observers during the Games, it was neither possible, nor necessary, to observe every doping control. The IO Team limited its activity to random sampling. All 33 doping control stations were visited and monitored. Depending on their doping likelihood, the sample-taking procedure in certain sports was observed more often than in others. For this purpose, the IO Team assigned all sports to one of the following risk categories:

- high-risk sport,
- medium-risk sport, and
- low-risk sport.

The allocation is based largely on the sport-specific characteristics of the relevant sport (physical demands of the sport and possible performance enhancing effect that doping

may elicit) and the experience of the individual members of the IO Team based on national testing programs. Overall, 10 sports were classified as high-risk sports, 18 as medium-risk sports (thereof 9 medium/high, 3 medium and 6 medium/low) and 9 as low-risk sports. The IO Team then determined an observation rate for each of the categories:

- High-risk sport: minimum 60 percent
- Medium-risk sport: minimum 30 percent
- Low-risk sport minimum 10 percent

This plan was reviewed by the IO Team on a daily basis, if necessary, in order to incorporate new findings, such as confidential information provided by athletes or athlete support personnel regarding the misuse of prohibited substances or other types of manipulation, or irregularities and problems arising as part of previous observations of individual doping control stations.

In the period between August 13, 2004 and August 29, 2004, the IO Team observed doping controls at least once in all sports and at all of the total of 33 doping control stations. Of the total of 295 doping control sessions during the Olympic Games, the IO Team observed 121, which corresponds to a rate of 41 percent. This means that every day, doping controls in at least six different sports were inspected for compliance with the rules and regulations. Therefore, the number of observations is certainly statistically sufficient for a well-founded investigation (Appendix 5, IO Missions - Summary of IO Observations).

## **2.2 Observations made**

In the view of the IO Team and as a generalization, the doping control procedures at the Athens Games met the requirements of the International Standard for Testing and ensured the integrity and identity of the samples collected. Only a number of relatively minor questions came to the attention of the IO Team concerning the doping control procedures. These are addressed below. Any measures implemented as a consequence would produce improvements to a well-proven system.

### **• Doping control stations:**

According to Appendix 1 of the ADRIOC in conjunction with the International Standard for Testing, doping control stations must as a rule comply with certain standards. According to these standards, doping control stations must consist of a waiting area, one or more processing rooms, and one or more toilets. All spaces should be contained in a single enclosed lockable station. The waiting room should contain a check-in desk at the entrance, a refrigerator or other form of cooling for sealed drinks, enough chairs and a television. The doping control station should have a sufficient number of processing rooms for the number of controls to be performed. Each processing room should have enough chairs, a lockable refrigerator and a hazardous waste bin. The toilet must be large enough for 2 people and enable the witness to directly observe the passing of the urine sample.

#### **- Size and arrangement of doping control station:**

The layout of the facilities complied with the standards throughout. Barring a few examples (notably in temporary premises or older venues) the quality of the stations was excellent and considerably superior to what many athletes would have been used to. For the most part, the key elements of proximity to field of play and changing rooms, space, comfort, privacy and security of the samples, were met. In addition, toilet areas were set up in a manner to

ensure that opportunities to manipulate samples (provided the witness was being vigilant) were all but eliminated. With few exceptions, the processing rooms were also separated sufficiently from the waiting area in order to guarantee the confidentiality of the process, as well as the privacy of the athletes. Only in very few cases did the IO Team notice deficiencies, e.g., situations where a processing room was (also) used as a walk-through to another processing room, where the various processing rooms were only separated from one another in a makeshift way, where the doors between the waiting room and the processing room could not be or were not closed, where various processing rooms used the same bathroom, or where the divider between a processing room and a waiting room was not sufficiently soundproof. Only rarely did the doping control stations not prove to be able to cope with the peak flow of athletes and associated personnel, either because the waiting room was too small or because of too few “processing” rooms. In one case (triathlon, cycling road time trials) the air conditioning system set up in the purpose-built tent was so noisy that it made any efficient communication difficult.

- Equipment of doping control stations:

As a rule, not only the layout of the rooms, but also the equipment used met the highest standards. All waiting rooms were equipped with a check-in desk, a television and a refrigerator with sealed beverages. In addition, each processing room contained a lockable refrigerator for storing samples, with one exception. In addition, all sample collection stations were equipped with appropriate numbers of chairs, tables, etc. On some occasions the capacity of stations was overstretched (and where this can be predicted – e.g. multiple finals – contingencies should exist) but, for the vast majority of testing sessions, the stations were properly and adequately equipped. With respect to urine collection specifically, appropriate quantities of equipment were supplied and subsequently offered to athletes to ensure that they had the opportunity to make their own choice and check quality. Calibrated beakers were supplied along with a fitting lid separately sealed in the same plastic bag and were similar in type to those used in many other testing environments.

- Security:

Security for the doping control stations was generally sufficient. Usually, but not always, the doping control stations were watched from the outside by a guard. A control table immediately inside the station was generally managed in an efficient fashion, and access was limited to those with proper authority. Only persons with accreditation or holding a Doping Control Access Pass were granted access to the doping control stations. The samples were always stored in a lockable refrigerator until they were picked up. Only in a few exceptional cases did the IO Team observe that access to the doping control station was not sufficiently secure. At no time was this the case when athletes were in the doping control stations for the purpose of doping controls. Nonetheless, the IO Team recommends that the doping control stations always be locked or guarded, even if they are out of operation only temporarily or for a short time.

- **Notification and escorting:**

Notification and escorting are among the most important phases of sample collection, yet also among the least formalized and most difficult tasks. It is the great variability of circumstances that can be confronted which makes the task

of notification and escorting particularly difficult. They therefore require that the personnel performing these activities have special sensitivity and experience. This is the only way to ensure that the rights of athletes are respected and opportunities for manipulation by athletes are ruled out. The decisive factor is that notification of the athlete to undergo a doping control should take place as soon as possible after the end of the competition and be documented to provide proof of notification. Moreover, from the time at which the determination has been made that an athlete will be subject to a doping control, the athlete must be placed under continual supervision. Lastly, every attempt must be made to bring the athlete to the doping control station for the doping control quickly—no later than one hour after notification. The athlete must be informed about this process and the consequences of a violation.

Of course, the above-mentioned principles do not apply without exception. For instance, there are no consequences for expiration of the one-hour period if sufficient grounds exist. These include factors such as participation in a medal award ceremony or a press conference. Nevertheless, even in these cases assurance must be given that the athlete is supervised constantly by an escort.

The IO Team is of the opinion that the notification and observation of athletes following the completion of their events was a point of relative weakness in the overall doping control process. There are a host of factors that have led to this conclusion, including the following:

- Training:

While some escorts were well-trained and had a very good grasp of the requirements of their task (often these were experienced international volunteers), too many were still being trained in basic principles immediately prior to carrying out their duties. A large number were seemingly unaware of the need to be both vigilant and responsive to the athletes' needs (for example in making drinks available as needed). They simply viewed their task as remaining in the general vicinity. While it is understandable that the least experienced personnel are assigned this role, it is also true that attempts to beat the system will be initiated during this phase, and any naivety or ignorance exhibited by those officials has the potential to be exploited.

- Awareness of officials:

The issue of the need to observe an athlete from the moment competition is completed is important. Given that athletes who finished as medalists knew they were going to be tested, it was important that they be observed and then notified at the earliest possible moment. It must be clear that the longer athletes are unobserved and notified after completion of the event, the greater the opportunity to attempt some kind of manipulation. Clearly it is inappropriate for the first people to run on to the field of play at the completion of an event to be doping control personnel, and it is desirable to allow athletes some moments to respond to victory or defeat in an appropriate manner. The decision of when doping control officials are able to notify athletes remains with the event organizers, and they will have a variety of priorities. However it is the observation of the IO Team that it is clear that every delay will have the potential effect of compromising the doping control process. There were occasions when the officials organizing/responsible for the field of play did not appear to be fully educated as to the importance of the notification process and were at times a hindrance to the escorts in their attempts to carry out their role. In one

case, this went so far that the coach of a basketball team failed to comply with the doping control procedures by impeding the ability of the escort to accompany the athlete for testing. In addition, the coach was verbally abusive, physically intimidating and threatening in an obscene and violent manner with both the escort and the Doping Control Venue Manager. As a result of this incident the athlete selected for doping was not chaperoned or observed for a period of several minutes. The consequence of this incident was that an investigation was launched by the Executive Director of the Olympic Games, that led to a warning of the coach and the Greek delegation.

- Leaving the field of play:

It is appropriate here to suggest that the International Standard for Testing does not pay sufficient attention to this crucial period between completion of play and notification. At events such as the Olympic Games, many athletes will know that they will be subject to testing and will be aware of a potential window of unobserved opportunity immediately after the event. One athlete about whom considerable suspicion had emerged was able to jump the boundary fence and join his fans in the stands for several minutes before returning to the field of play and exiting. In another sport, the athlete was able to leave the field of play between the 5<sup>th</sup> and 6<sup>th</sup> rounds of the competition. At this point, this athlete was most likely to be selected to undergo a mandatory doping control, because his previous attempts had placed him in the lead. The athlete ultimately won the competition. In this case, provisions must be made to ensure that this athlete does not remain unsupervised. Otherwise, there is a danger that this athlete could make plans for manipulation unnoticed sometime after the end of the competition.

Of particular concern is the situation in road cycling where the International Standard was not applied and cyclists were not notified upon completion of the event. The rules do require them to return to team tents where escorts can make the notification. However this provides ample opportunity for manipulation to occur. Furthermore, in some observed instances, the cyclists did not return as required (for which there was no penalty) and the escorts had to hunt them down with assistance from other team personnel.

- Mixed zone:

All venues had a section, referred to as the “mixed zone,” which is an area where media can speak to athletes immediately following their exit from the field of play. All athletes are required to leave the field of play via this route, so it is a logical point to make contact with them; however, it is also noisy, not private, and on many occasions was not well controlled. Opportunities to make an early notification in a discrete fashion and at a place where conveyance of key information is possible were consequently limited.

- Medal ceremonies:

Medal ceremonies also provided a difficult environment for escorts to maintain proper visual contact with athletes (not so much during, but prior to and following the ceremony). In many instances, escorts did not seem to make any effort to do anything other than to make further contact with the athlete on his/her re-appearance in or around the mixed zone.



- Team sports:

It is the practice in some team sports for teams to be informed of the athletes selected for doping control five minutes prior to the end of the match. The purpose of this is unclear, however, in view of some of the practices available for manipulation of samples (which were purportedly used in Athens). The IO Team is of the view that this practice has the potential to compromise the doping control process. It can be seen from the above that the IO Team observed a number of examples of a failure to apply the International Standard for Testing regarding continual observation of athletes post notification (ref. article 5.4.2 a).

**RECOMMENDATIONS:**

- *The IO Team recommends that the doping control stations always be locked or guarded, even if they are out of operation only temporarily or for a short time.*
- *The IO Team recommends that all notifications be in accordance with the International Standard for Testing. In particular, the notification process must be established so that athletes can be reached as early as possible and informed about the doping control. In any case, constant supervision of the athlete by an escort must be ensured from the time when it has been determined or is likely that an athlete will be required to undergo a doping control, but no later than the end of the competition. This is also true during the medal ceremonies or in the mixed zone.*
- *It is recommended that future organising Committees pay greater attention to the training of "escorts" including providing information on how athletes might potentially act in ways that could compromise the process.*

• **Sampling procedure:**

The process of actually collecting and handling samples is among the most extensively formalized phases of the doping control process. The (detailed) requirements are set out in Article 5 of Appendix 2 of the Doping Control Guide that is in conformity with the International Standard for Testing. In the great majority of cases, the requirements stipulated by the Doping Control Guide were complied with in full. There was only a single case out of the numerous processes observed by the IO Team in which an error of method rendered the results of the analysis of a doping sample unusable. In the above-mentioned case, the code number on the bottle or container was noted incorrectly on the form, and this error was not noticed subsequently by the doping control officer or by the athlete. Otherwise, either no errors of method were made, or the errors made were so minor that the results of the analysis were not affected as a result. This high standard was also underscored by the fact that the athletes made use of the option granted to them to comment on the process in the Doping Control Official Record in rare cases only. Some of these comments were also positive. The few comments of a more critical nature referred to general aspects, e.g., to requests for repeated controls. This lack of feedback can, in the view of the IO Team, partially be attributed to the professional organization of the doping control procedures at the Games. By far the most common language used during the sampling procedure was English, but in many cases it was a second language for both the athlete and the testing official. Even where English was not used, it was rare for both parties to be speaking in their most familiar language.

- Documentation:

Documentation is an essential part of the sample collection process. Experience indicates that it is more difficult to successfully question analysis results at a later date when the individual steps of the process are documented completely. Generally, notification and check-in at the doping control station and the sample collection session are documented on separate forms. The forms are clearly structured and quite straightforward, and by and large provide no opportunity for misunderstandings. The copy of the form intended for the laboratory does not contain any personal data and therefore ensures the anonymity of the analysis procedure. The forms comply with the requirement of article 78.4.5 of the International Standard for Testing. However, the IO Team has the following comments about the form used for the sample collection session:

(1) *Consent to research purposes:*

The form contains (in three languages) the question of whether the athlete consents to his/her urine sample being used anonymously after the end of the Games by a WADA accredited laboratory for research purposes. More specifically, the form reads as follows:

*"Statement of consent*

*I agree that my sample be used anonymously for anti-doping research purposes by any WADA accredited laboratory when all analyses have been completed, and my sample would otherwise be discarded. Refusal of consent will bear no consequences for the athlete. The Helsinki Accords and any applicable national standards as they relate to the involvement of human subjects in research will be enforced."*

This question is usually asked at the end of the doping control session. The athletes check the respective box (yes or no) to indicate their answer.

The IO Team considers this approach to be questionable in several ways. Neither the explanations on the form, nor those offered by the doping control officers during the doping control session, were sufficient in the IO Team's opinion to ensure that the athletes were making well-thought-out and informed decisions. For instance, none of the athletes or doping control officers were aware of the provisions behind the Helsinki Accords or the "applicable national standards." In addition, no explanation was given of what types of experiments or research are involved. No indication was given about how anonymity of the research and research results would be guaranteed. This lack of information and clarity makes the issue of athlete consent to the use of their doping samples for research purposes ethically questionable. Moreover, this question is asked in connection with the sample collection session for anti-doping purposes. Even if the question was most often asked toward the end of the session and the athletes were generally (but not always) informed that answering the question would not affect the sample collection session, the question was still perceived, at least from the point of view of the athlete, as part of the sample collection session, because the question was asked at a time at which the athlete had not yet signed the form and had not yet checked the data for accuracy. The IO Team considers this amalgamation of doping-related information with questions about the use of samples for

research purposes to be problematic—this results in many athletes not making a voluntary decision. In particular athletes who are not accompanied by a trusted third party and were not able to receive advice, appeared to be unsettled. In addition, it was observed that a few athletes consented to their samples being used for research purposes only to avoid the appearance that they might have something to hide. The IO Team regards the need for research on samples to be a high priority and, notwithstanding the comments above, was encouraged by the very supportive approach of many athletes to the exercise. The Team is hopeful that this strong support will be reflected in constructive research outcomes. Nevertheless, it believes that the question asking for the athlete's consent for the use of their sample for research purposes should be thoroughly reconsidered if it is to be used in the future.

(2) *Athlete's signature:*

The Doping Control Official Record requires the athlete's signature in various places, such as the area with a gray background and the section with the headline "Partial sample," as well as the section entitled "Final sample" and at the end of the form where the athlete declares the information on the form to be complete and accurate. The time at which the athlete was required to sign the section entitled "Final sample" was handled differently in the various doping control stations. In some cases, athletes were required to always sign there, whereas in other cases they were required to sign if they had previously provided a partial sample. Occasionally, a signature was only requested if an additional sample was necessary. From the point of view of the IO Team, the form should leave no room for ambiguous interpretations. The forms should instead always be filled out in the same way. The issue of whether to leave out entirely this separate signature in the "Final sample" section should be considered, because requiring it does not make a lot of sense, at least not from the point of view of the IO Team. On the one hand, this section is already separated in terms of content and form by the signature at the end of the Doping Control Official Record, and on the other, the athlete should not have to separately sign off on this step of the process in the event that he or she provides an additional sample.

(3) *List of medications and supplements:*

The form stipulates that a list must be provided of the medications and supplements taken by the athlete in the three preceding days. In many cases, filling out this part of the form takes up to 50 percent of the total time estimated for the doping control session (see Appendix 6). As a general rule, athletes must write down the relevant supplements and medications on a separate sheet of paper. The DCO then transfers this information to the Doping Control Official Record. Indication must be made about the form taken (powder, tablet), the most recent time taken and the dosage of the medication or supplement. If language difficulties arise, the process is lengthened considerably. In fact there were a number of observed cases in which attempts to refine information for this section were taken to absurd lengths. Athletes were making phone calls to track down team doctors, interpreters were asked to clarify the differences between "tablet" and "pill" and so on. In order to ensure a (minimum) plausibility check of the data at all, the DCO must have undergone some medical or pharmaceutical training.

Finally, even that cannot prevent a lot of data of dubious value from being provided (e.g., dosage of unspecified multivitamins). The IO Team does not believe that this effort is really in proportion with the results obtained, because the consequences are not linked to the correctness or incorrectness of the information provided. The laboratory does not generally pay attention to the information provided on the form. The IO Team therefore believes that the current requirements regarding medical declarations should be thoroughly reconsidered. This should be done at the generic level by WADA in terms of article 7.4.5 of the International Standard for Testing and, in addition, by the IOC and other ADOs in terms of the instructions provided to DCOs when eliciting any information which is required.

(4) *Irregularities in the procedure:*

The Team did observe a reluctance by the medical officers (MOs), to record any irregularities which may have occurred (Article 5.4 lit. q Appendix 2 of the Doping Control Guide). A failure to comment by the athlete (which was by far the norm) seemed to be greeted as a kind of victory by medical officers and generally they were not keen to take responsibility for recording any irregular occurrences. It is the view of the IO Team that the Doping Control Official Record should record all important matters that occurred during the process and should make reference to anything that could legitimately be raised in front of a tribunal, should it come to that. In the event that an anomaly was agreed to have occurred, but was not recorded, it may raise more general questions about the accuracy of the record of the test even if it did not of itself provide a valid reason for doubting the integrity of the process. (As an aside it is worth noting that the presence of an IO Team member in the processing room was practically never recorded and yet all the people present during the process should clearly be a matter of record even though there was no specific place allotted for the purpose. The comment section on the Form could have been used for that purpose.)

(5) *Clearer heading on the forms:*

Every athlete required to submit to doping control was ultimately provided with copies of three different forms. This was a logical sequence confirming notification, arrival at the station and completion of the sample collection process. Nevertheless, the purpose of each slip of paper was not always evident to the athlete. However, a clearer heading for each form, summarizing its purpose, would have limited confusion. Indeed, it may well be that two forms would have sufficed.

(6) *Manual corrections:*

To the extent that, as in most cases, the Doping Control Official Record was filled out by hand, the data had to be transferred to a new form if errors occurred. Particularly prone to errors were birth dates (particularly due to the format that in some cases differed from the dd/mm/yy format) and the list of medications. The usual procedure here was to fill out a new form in these cases, which necessarily results in a lengthening of the process. This was not always met with acceptance and understanding by athletes. In a few cases, the IO Team noticed that corrections were made on the form itself contrary to the requirements.

- Time:

The length of the doping control session depended on many variables, such as the athlete's experience (whether the athlete had already undergone doping controls several times or not), language difficulties, the issue of whether one or several samples were required, the willingness of the athlete to cooperate with the DCO or the MO, and the level of training and experience of and the routine followed by the DCO or the technical officer. In the IO Team's estimation, the doping control process at the Olympic Games could be optimized with the result that wait times for athletes would be reduced and therefore the interference in the athlete's schedule could be minimized. However, it is the firm belief of the IO Team that security and fairness of the process should in any case remain the primary objective, regardless of the time taken to complete the collection process.

(1) *Provision of information:*

The time period estimated for the doping control sessions is significantly shorter for athletes experienced in undergoing doping controls than for inexperienced athletes. Improved information provision would therefore considerably accelerate the doping control process. According to the observations of the IO Team, the proportion of poorly informed or uninformed athletes was, unfortunately, surprisingly high. Of course, clarifications should ideally be provided by the NOCs before the Olympic Games. Even during the doping control process, the IO Team's view is that the event organizer has many opportunities to contribute to closing information gaps.

For instance, vital information about the rights and obligations of athletes could be printed on the Doping Control Access Pass that is distributed to each athlete at the time of notification. In addition, the time spent in the waiting room of the doping control station could be utilized much more effectively. For example, posters could be hung in the waiting room or hand-outs could be distributed containing descriptions or depictions of the doping control process, and the rights and obligations of athletes. Attention could be drawn to the minimum amount of urine required, and some practical tips could be given about avoiding partial and/or dilute samples. Another possibility is that athletes could be informed about the use of doping control samples for research purposes and the related (legal and ethical) issues, using brochures or posters in the waiting room. To the extent that there is interest in retaining the information provided about medications and supplements on the doping control form in the future (see above), athletes in the waiting room could be required to prepare such a list and take it with them into the processing room. Some athletes already brought with them a medication list or card prepared by their team doctors into the doping control station. This is also a feasible model for shortening the length of time athletes spend in the processing room. It would also certainly be helpful if one or several copies of the Doping Control Guide were displayed for inspection in the waiting room.

(2) *Use of computers:*

If used correctly, computers can accelerate the process and help eliminate sources of error. In the IO Team's report on the Olympic Games in Salt Lake City, the following reference was made to this

issue: "It is recommended that, to simplify the cumbersome handwritten documentation work and procedures currently in force, a computerized doping notification and record process be introduced and that barcodes be used for identifying individual sample kits." All processing rooms in Athens (with one exception) were equipped with a computer, a barcode reader and a printer. However, this unfortunately did not lead to a reduction in effort. From the beginning, many of the computers and printers were unusable, and sometimes the barcode readers did not function satisfactorily, so that the serial numbers on the bottles or containers, or the athlete's accreditation number, had to be entered by hand. This tended to result in a lengthening of the doping control session. As the Games proceeded, the IT problems increased constantly so that by the end of the Games, nearly all doping control stations had to fill out the forms by hand with all of the accompanying difficulties. The experience described above shows that using computers can only simplify the work at hand if sufficient opportunity is provided to test the system under realistic conditions and enough time is provided to train staff on this system. In addition, the use of barcode readers simplifies the procedure only if the data recorded on the accreditation card is correct. The IO Team witnessed a couple of instances where this was not the case (e.g., birthdates). If these prerequisites are not fulfilled, then the use of computers serves more as an inefficient distraction, which further diverts the attention of the DCOs from engaging with the athletes.

(3) *Cooperation:*

The IO Team was extremely impressed by the predominantly cooperative and supportive attitude of the vast majority of athletes who were selected for testing. That is not to say that they were always pleased to have been selected and many were initially a little "curt" with the notifying official, but few allowed the process to upset them and most completed it with friendliness and good manners. The IO Team commends the vast majority of the athletes for their attitude toward doping control.

- Specific gravity of urine:

The ADRIOC contain requirements concerning the minimum volume of a sample (Article 5.1 of Appendix 2 of the Doping Control Guide). According to these requirements, the volume of the sample must be at least 75 ml and, if the athlete has been selected for an EPO test, a minimum of 110 ml. The rules explicitly state that the athlete should be encouraged by the DCO to provide more than the minimum volume requirement if possible. In many cases, the athlete is able fulfill this request. Furthermore, the regulations also stipulate that the DCO shall measure the specific gravity of the urine sample. If the specific gravity is under 1.005, an additional sample will be required of the athlete. The regulations do not spell out requirements concerning the volume of additional samples.

The IO Team considers this approach to be poorly thought-out and illogical. If the specific gravity of the first sample is below 1.005, the next sample (provided in the doping control station) will in all likelihood also fail to meet the laboratory guidelines for specific gravity. It is therefore hard to understand why an additional sample is then required in all cases. If, for example, the athlete provides a first sample containing 110 ml and a second sample containing 10 ml, then he or she has met the requirements of the

regulations insofar as no EPO test is planned. However, if the athlete provides 150 ml for the first sample, then he or she is asked to provide an additional sample, possibly hours later. This approach does not make sense.

It is recalled that this was also a point of confusion in Sydney. It seems to the IO Team that a minimum volume should be stipulated from the very beginning in the event that a diluted sample is submitted. Whether this volume is provided in a single sample or several samples should not be a material issue. In this regard, attention is drawn to the recommendation made in the report on the Olympic Games in Salt Lake City (p. 27) in which athletes are additionally invited to a doping control on the following day, for example, in order to obtain at least one sample which meets the specific gravity requirements of the laboratory guidelines. This recommendation was incorporated into the Doping Control Guide (Article 5.6 of Appendix 2). According to the Guide, the IOC/ATHOC is required to schedule another sample collection session for the athlete for target testing as soon as possible if the specific gravity values have no natural cause.

- Equipment:

The rules and regulations specify the use of Bereg kits as urine sample equipment. The equipment is sophisticated and acceptable. As a rule, no irregularities in design or function were observed (however, see note below). In particular, there were no samples that leaked and, upon inspection, athletes and attending officials seemed satisfied with the sample kits. In the interest of completeness, attention should be drawn to three cases in which sealed bottles burst upon opening in the laboratory with the intended tool. The result was that only the corresponding B samples were available for analysis. Whether and the extent to which the bottle breakage is the result of a material defect is unknown. WADA is encouraged to pay particular attention to such occurrences in the future and to take the required steps, if necessary.

Lastly, attention is also drawn to the two innovations in the Bereg kits compared to those used in past Olympic Games. The plastic bags used to seal the kits by the manufacturer had been replaced with a more efficient and easily opened cling-wrap-type seal. In addition, for the first time a silver tape was used to close the boxes containing the filled bottles. This tape was an annoyance from time to time when it was misplaced and certainly added to the time taken in completing the process. The purpose of the tape was not even clear to the MOs, and there was some perception that it provided an additional "security seal." It was apparent, however, that it could be removed and replaced without any sign, meaning that it had no "security" value. Subsequent inquiries revealed that the manufacturer regards this tape primarily as a "closing device" for the boxes holding the sealed kits. If so, it is suggested that additional supplies be provided, and it be made clear that it has no security function. Occasionally, this was described differently in the doping control sessions. It is the view of the IO Team that each step in the process must have a clear purpose, particularly from the athlete's perspective, and this was not the case with the silver tape. The IO Team therefore recommends rethinking the need for this additional packaging component particularly in view of the fact that it is not a requirement of the Standard. The IO Team is aware of the fact that this packaging component was added in reference to the Sydney Report, which expressly states: "We agree with the view that the security lies in the secured screwed tops and lids of the bottles. An additional tamper-evident tape could be applied to the polystyrene box, though this would involve another check for the laboratory.

We recommend that Berlinger ... consider what additional security, if any, could be given to the filled sample kits." The IO Team for the Athens Games does not share this viewpoint and it has not become the normal international practice in the intervening years. Additional formalization of the actual sample taking procedure should only be considered for steps where it would contribute to solving true problems. The IO Team is not aware of a single actual case in which an additional seal would have been required to prove or disprove that the filled sample kits were manipulated.

- Review of the doping control operations:

A number of people are permitted to observe doping control operations. In addition to the doping control team at the venue and the ATHOC Doping Control management team, these include the members of the IOCMC, IF doping control representatives, the members of the IO Team and the athlete's representative and interpreter (see Article 1.2 of Appendix 2 of the Doping Control Guide). The authorizations granted to these various people are stated as follows in the rules and regulations: with regard to the members of the IOCMC, the rules and regulations stipulate that they may "review the doping control operations and processes." The same is true for the members of the IO Team. In terms of the IF representatives, in contrast, the rules indicate that they may "attend or be present for any or all of the doping control processes." On the other hand, athlete representatives or interpreters can "accompany" the athletes. The next paragraph then states: "the doping control personnel and representatives referred to may be present for all aspects of the sample collection and sealing processes except for during urination." At first glance, the people to whom the term "representatives referred to" refers appears to be unclear because IO members and members of the IOCMC are not representatives. However, the next sentence appears to indicate that the limitation of the right to be present during the actual passing of the sample generally applies to all people, because otherwise Article 1.2 states that "Only the designated doping control witness who will be the same gender as the athlete will observe the Athlete passing the sample." This is certainly ambiguous. In particular, this limitation contradicts the description of the rights of IF representative somewhat, because the rules and regulations state explicitly that they may "attend or be present for any or all of the doping control processes."

(1) *Two people observing the passing of the sample:*

In one case, the IO Team observed a case in which not only the designated doping control witness, but also the IF doping control representative, were present during the actual passing of the sample. In this concrete case, there were sufficient grounds to suggest that the experience of the IF representative would be very helpful in assuring that the accuracy of the sample provision process could be validated for the benefit of all. In view of these ambiguities in the regulations and the special circumstances surrounding this particular case, the IO Team does not believe this to comprise a violation of procedure. In this specific case, the IF representative was also of the same gender as the athlete.

(2) *Role of the various "representatives":*

The various IF representatives in the individual doping control stations had a widely divergent understanding of their roles. Some "popped in"



from time to time, but took no detailed interest, while others diligently sat through every possible sample collection process. A few went further and actively participated in the process. Sometimes this was helpful, but just as often it interrupted the practiced sequence being employed by the MO/DCO, complicated the process and unsettled the doping control personnel. A practice which may have been normal to the IF was not necessarily consistent with the instructions to the MO and, provided the method adopted by the MO was not contrary to the applicable rules, alternative methodologies should not be insisted upon. In addition, the declared goal is for the sample taking procedure to be performed as uniformly as possible across the individual doping control stations. It is the view of the IO Team that while many IF representatives have extremely valuable experience, they should not habitually involve themselves in the sample collection process and should offer "assistance" only where necessary and in as discrete a fashion as possible. The IO Team considers it advisable to clearly and unambiguously define the hierarchy and the duties of the various people present in the doping control stations, particularly the relationship between IF representatives and doping control personnel. According to the observations of the IO Team, some IF representatives tended to exceed the duties described in the Doping Control Guide by the words "attend or be present for any or all of the doping control processes."

Compared with past Games, the role of the members of the IOCMC has also changed. Although in the past, a member of the IOCMC was always present at each doping control station, their responsibilities today are limited to random controls. In this regard, the duties of the IOCMC have converged somewhat with those of the IO Team today since the members of the IOCMC did random observations only. In the future, thought should be given to possible synergistic effects and how limited human resources capacity could be better utilized under certain circumstances. Among other options, a possible one is to make the deployment plan for the members of the IOCMC available to the IO Team.

- Mobile phones:

The rules and regulations stipulate that mobile phones may be used in the waiting room, but not in the processing room (Article 1.2 of Appendix 2 of the Doping Control Guide). The aim of this provision is to enable the sample collection procedure to proceed rapidly and unimpeded by ensuring that the participants are concentrating on their duties and responsibilities. The provision is based on a recommendation in the Sydney report, which reads as follows (p. 27): "the doping control processes were often interrupted and on occasion unnecessarily prolonged by the social use of these devices by competitors or their NOC representatives. ... We recommend that clear guidelines on the use of mobile phones in doping control stations are set down by the competent authorities." There were many violations of this provision in the Doping Control Guide, not only by athletes, but also by "representatives," particularly the athlete representatives. This is due to the increased availability and accessibility to these phones by all concerned. The IO Team's opinion is that more attention should be paid in future to compliance with this provision and that corresponding signs/posters in the processing room should bring attention to the prohibition against mobile phone use at that time.

- Athletes' rights:

Various rules and regulations stipulate mechanisms for protecting the rights of athletes. For instance, athletes have the right to be accompanied by an accredited representative. Moreover, athletes generally have the right to an interpreter in all phases of the sample collection procedure (see Article 1.2 of Appendix 2 of the Doping Control Guide) and the right to choose the appropriate sample kits (see Article 1.3 of Appendix 2 of the Doping Control Guide). Athletes also have a right to protection of their privacy to the greatest extent possible. For this reason, only one athlete can be called into the processing room at a time. Furthermore, athletes have a right to be informed about the major steps in the process (see Article 5.1 of Appendix 2 of the Doping Control Guide). Lastly, athletes can raise objections against the way in which the process is performed.

The IO Team is of the opinion that in cases where the athlete's legal status is formally and concretely set out in the rules and regulations, these provisions are also largely complied with. Consequently athletes' rights were also respected. According to the IO Team, these (few) provisions do not, however, describe the full extent of the legal status of athletes. The purpose and objectives of the rules and regulations (see above) provide for a general principle that runs throughout the entire doping control process, namely that athletes should be at the center of the entire process, i.e., that the doping control process should not be an end in itself. In each phase of the process, attention must be paid to treating the athletes not as objects, but as the subject of the process. The behavior of doping control personnel (and also representatives) should therefore be commensurate with this status. These requirements, which are not a part of the formal rules, were followed to a large degree in the opinion of the IO Team, but not always. The athletes were not always given the consideration they deserved. For this reason, appropriate training should be provided to staff in the future to ensure that the concerns and interests of the athletes are always addressed sufficiently. For instance, attention should be paid to the doors between the waiting room and the processing room remaining closed to protect the athlete's privacy. For the same reason, athletes should not be questioned by DCOs openly about their medications and supplements in the waiting room. The various representatives and doping control personnel should always treat the athletes in a friendly, yet professional manner. If an athlete has only submitted a partial sample, he should not be reproached. The same is true if misunderstandings occur due to language difficulties and the DCO has to fill out the Doping Control Official Record again. Moreover, the various people present in the processing room should normally be introduced to the athlete. Lastly, it is the polite thing to do to allow the athletes (and not the representatives) to determine which television program to watch in the waiting room. The same is true for the question of how high the air conditioning should be set in each doping control station. The athletes should primarily be making these decisions, not the doping control personnel or the representatives. Under no circumstance should smoking be allowed in the doping control station, even in a doping control station toilet converted into a "smoking room." If athletes have a question or indicate that they are ready to provide a sample, they should be accorded the required attention by doping control personnel. If the athlete has to go to the toilet urgently, but the only processing room is occupied at that moment, should the athlete simply be told to wait until the end of the sample collecting session? Other approaches and solutions are possible here that suitably address the interests of athletes worthy of protection in addition to the security aspects of sample collection.

It is clear to the IO Team that the doping control process places significant demands on athletes, especially the most successful ones. This report further suggests that to minimize the possibility of the system being compromised, additional steps should be considered. Nevertheless the IO Team is of the opinion that all elements of doping control needed to be constantly reviewed to determine their ongoing applicability and need. Most athletes are clean and yet the doping control process demands a lot of them — demands that most are more than willing to meet. Yet it is reasonable to ask questions such as the following. Is it necessary for the same athlete to be tested for perhaps five or six days consecutively and is there some way to minimize this without undermining the deterrent effect? The IO Team witnessed the case of a tennis player who had to give a urine sample at two o'clock in the morning, pass a blood test the next morning, compete in the finals the same day and provide another urine sample after the end of the competition (three tests in 24 hours). Is it appropriate for a 40-plus year old dressage rider to be still quartered in an isolated doping control tent in a deserted venue five hours after the completion of the event on the night that has brought an inspired career to an end with a medal? It may be that the answer is yes, but it is a sorry sight and if alternatives are available they should be considered.

- Staff:

A distinction must be drawn between paid staff and volunteers in terms of doping control personnel. Paid staff included the venue managers of the various doping control stations, among others. The vast majority of these managers were experienced staff from the national pool of DCOs. For the most part the IO Team was impressed by these people, some of whom were placed under considerable pressure when high numbers of athletes needed to be "processed." This was certainly the case at venues such as swimming and rowing/canoeing and, while not all problems were necessarily resolved to the absolute satisfaction of all, the skills of these officials in organization, staff control and problem-solving were admirable. The IO Team is of the opinion that ATHOC went to considerable lengths to ensure quality facilities and venue managers and for the most part this was achieved.

MOs were also paid staff. While it was clear that the MOs in charge of sample collection were trained in the process, it was equally clear that many (MOs) were inexperienced. On the whole, in the IO Team's view, the question arises of whether Doping Control Officials need to be doctors ("medical officers"). This is not self-evident to the IO Team for a process which is primarily technical rather than medical. This requirement precludes the majority of vastly experienced and extremely competent doping control officials from around the world being able to bring their skills to bear on such a crucial task at such an important event. The best technical officials are brought to the Games by their respective sports, and it is the view of the team that the same should apply in doping control. In some cases the inexperience of the MOs led to more experienced venue managers and even International Federation representatives involving themselves in the sample collection process. This created some confusion as athletes were receiving instructions from different sources. With respect to other assisting officials and to the extent that were recruited on a national basis, the volunteers were mostly students in their first few semesters of university with little practical experience in the doping control process, but who were prepared for their duties with the help of workshops and handouts. Foreign

applications for volunteers were only considered if the applicants could prove that they had sufficient experience in doping control matters.

On the whole, particularly considering the number of steps in the detailed process of sample collection, the doping control personnel were generally quite well organized, knowledgeable and efficient. Typically, athletes were taken through the entire process without many errors and with meticulous attention to detail, particularly with respect to completion of the Doping Control Form. However, the lack of experience meant that problem-solving skills were sometimes limited when situations varied from the norm (language difficulties, partial samples, refusal to provide a sample, diluted samples, spilled samples, etc.). Here again, staff acted correctly in most cases, but less competently in some. In some cases, the reaction to unusual occurrences was rather formal and by-the-book, and without the required flexibility. In this context, a broad gap between foreign and local staff could be ascertained. This indicates that doping control personnel need to be more than well educated in order to ensure that tests are conducted properly and fairly to protect athletes. Doping control personnel with the applicable practical experience (but also the life experience acquired with age) are also at an advantage. In many cases, the IO Team thought that the doping control personnel exhibited excessive concentration on the process, whereas too little attention was given to the athletes and their responses to what was unfolding in front of them. The effect of this, particularly when combined with the need for one or both parties to use unfamiliar languages, was to prolong the time needed to complete the procedure beyond what was necessary, and the athletes experienced a robot-like process with little engagement between themselves and the MO. In the worst cases, it also leads to confusion. In one observed case, an athlete who had provided a partial sample left the processing room under the impression that the process was complete. The official, in paying little attention to the athlete, had not recognized his complete lack of understanding of what was occurring. As the Games progressed and thanks to the influence of certain IF doping control representatives, the process began to function better and better. Assistants in particular escorts did not always exhibit the required professional approach to their activities. The IO Team was left with the impression that some of these persons were not completely up to the challenge of the job due to their young age and a certain degree of naiveté. The IO Team believes that posing for photos and exchanging pins with the athlete being supervised or the athlete representative before the doping control has been completed are activities that are hardly suitable in any case for guaranteeing confidence in the neutrality of the process, honing the monitoring skills of the escort and reinforcing the credibility of the process.

- Post collection administration, transport and chain of custody:

Samples were stored in refrigerators immediately upon completion of the process. In many, but not all cases, the refrigerators were locked. The post-collection administration and the chain-of-custody procedures for the transport of the urine samples from the doping control station to receipt at the laboratory are set out in detail in Article 9 and 10 Appendix 2 of the Doping Control Guide. An elaborate and comprehensive paperwork system was employed at the completion of each session to ensure that the samples and the paperwork all found their way to the required locations. In examples observed by the team this post-test administration was carried out carefully and accurately with members of the doping control team double-checking each step of the process. No inconsistencies were observed. All samples and documentation were then forwarded from the testing officials to a

professional courier company for transport to the laboratory, IOC and ATHOC. This transfer process was performed in the presence of a police officer who stayed with the samples until delivery to the laboratory. This process worked well as observed by the Team, and no problems with this system were reported. There were no long delays in getting a courier to the doping control station, or in the courier finding the correct door at the laboratory to deliver the bags. However, it has been observed that while there was frequently a member of the IOCMC present at the sampling stages, hardly anyone remained for the transport and courier phase; IF representatives were equally often absent at this stage of the procedure. On the whole, preparing samples for transport and filling out all of the paperwork is a time- and labor-intensive undertaking. In the Salt Lake City Report, the question was raised about whether some aspects of these activities are overregulated. The Salt Lake City Report specifically states:

*"Recent developments in doping control techniques have, in the opinion of the IO Team, led to an internationally acceptable view that too much importance is now attached to this question: in particular, the very widespread use of Berek kits, with their tamper-evident tops, and other in-built security devices, means that once the bottles are sealed by the athlete, and dispatched with the correctly completed and signed doping control record forms, the chain of custody procedures could be eased without harm to the integrity of the sample or the rights of the athlete. For example, the need to have a transport bag with its own seal is questionable."*

The IO Team for the Olympic Games agrees with this finding and therefore repeats this earlier recommendation. In addition, the IO Team would have preferred that paperwork intended for the IO Office be better labeled (of course, this did not compromise the quality of the process itself).

## RECOMMENDATIONS

- *The IO Team regards the need for research on samples to be a high priority. Nevertheless, it believes that the question asking for the athlete's consent for the use of their sample for research purposes should be thoroughly reconsidered, both in terms of content and the procedure involved.*
- *It is recommended that review of the requirement to declare medications on the doping control form be carried out.*
- *It is the view of the IO Team that the Doping Control Official Record should record all important matters that occurred during the process and should make reference to anything that could legitimately be raised in front of a tribunal.*
- *It is recommended that the doping control process can be optimized, where possible, with the result that wait times for athletes would be reduced and therefore the interference in the athlete's schedule could be minimized.*
- *The IO Team considers the case in which the sample does not meet the specific laboratory requirements as to specific gravity to be less than sophisticated. It is recommended that WADA develop a model of best practice with respect to dealing with dilute samples. (This would support the existing Annex F of the International Standard for Testing.)*
- *Additional formalization of the actual sample taking procedure should only be considered for steps where it would contribute to solving true problems. Possibilities should be examined of simplifying the procedure (e.g., forms, "seals") without giving up or compromising essential standards.*
- *The IO Team recommends that the hierarchy and the duties of the various people present in the doping control stations be regulated clearly and unambiguously, especially the relationship between IF representatives and doping control personnel.*
- *The IO Team recommends that it be informed of the deployment plan for members of the IOCMC, so that the IO Team can factor this information into its own observation assignments.*
- *It is recommended that the IOC reconsider the requirement for medical doctors to conduct the sample collection session in view of the potential availability of alternative very experienced "DCOs".*
- *The IO Team's opinion is that consideration should be given in future to enforcing regulations against mobile phones in processing rooms.*
- *The doping control process is not an end in itself. In each phase of the doping control process, attention must be paid to treating the athletes not as objects, but as the subject of the process. It is therefore recommended that the behavior of doping control personnel (and also IF representatives) should therefore be commensurate at all times with this status.*
- *It is recommended that there be a review of the chain-of-custody requirements, distinguishing between the essential and the desirable, in light of new techniques.*

# BLOOD SAMPLE COLLECTION

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## 1. Background

Blood tests were first introduced as a screening test to identify athletes using erythropoietin (EPO) at the Sydney 2000 Olympic Games. At the Salt Lake 2002 Olympic Games, blood was collected for two purposes, i.e., in the course of pre-participation tests at competition venues and for detection and/or proof of use of prohibited substances and/or methods. At the Athens 2004 Olympic Games, blood tests were conducted only for detection and/or proof of doping. Three new parameters were introduced, i.e., detection of blood transfusion, hemoglobin-based oxygen carriers (HBOC) and human growth hormone (hGH) (see Appendix 7).

## 2. Overview

As with urine sample collection, blood sample collection is also divided into two phases:

- (1) Test distribution planning and selection of athletes; and
- (2) Notification, collection and handling of samples:

Athletes selected for a blood test were requested to report to the doping control station. At the doping control station phlebotomists collected the blood sample. When the athlete was ready to provide a sample the athlete selected and opened one package of blood collection equipment and inspected the code numbers on the bottles and tubes as well as on the kit. The phlebotomist then withdrew the required amount of blood from an appropriate vein into the collection tubes. During the sample collection the tubes remained in full view of the athlete until sealed. The tubes required to be centrifuged and needed to sit for twenty minutes for coagulation and were then placed in the centrifuge by the athlete. The process of centrifuging took approximately seven minutes. In a final stage, the tubes were placed in the respective A and B Berek bottles by the athlete or the DCO, if requested by the athlete, and the athlete then sealed the bottles. In full view of the athlete, the DCO checked that the sealing was complete. After completion of the relevant sections of the Doping Control Official Record by the DCO, the athlete certified by signing the form that the entire procedure had been performed in substantial compliance with the procedures.

## 3. Test distribution planning and selection of athletes

In accordance with the ADRIOC, the IOC Medical Commission and ATHOC determined the number and selected the athletes for blood collection in consultation with each International Federation using target testing and weighted selections, as well as random selection methods or selection on the basis of finish position. Since the test distribution was made prior to August 13, 2004, the IO Team was unable to observe this process.

## 4. Notification, collection and handling of the samples

### 4.1 Process observed

In total 327 blood tests were conducted in the period from August 13, 2004 until August 29, 2004 and 327 samples were analyzed. As with blood drawing in general, several fundamental human rights are involved, so the IO Team put special emphasis on observing blood collection during the Games. The IO Team observed 36 blood sample collections at the polyclinic (see Appendix 8). This is statistically more than sufficient for

representative sampling. Several phases of the blood tests, i.e. notification, sample collection and documentation, were observed.

#### **4.2 Observations made**

In the IO Team's opinion, the doping control procedures at the Athens Games with regard to blood testing were conducted in a friendly and professional manner. Only a number of relatively minor questions came to the attention of the IO Team concerning the doping control procedures. These are addressed below. Any measures implemented as a consequence would produce improvements to a well-proven system.

- **Doping control stations:**

Blood tests in Athens were conducted at the beginning of the Games solely at the Olympic Village Polyclinic. The Doping Control Guide (Appendix 2 Article 4) makes a provision for this, stating that "all blood sampling will be conducted at the Village Polyclinic." At the rowing venue, the IO Team came across a number of complaints from athletes and team officials about the inconvenience of their having to travel a very long distance from the rowing venue to the Olympic Village Polyclinic for blood draws with no advance notice. At the request of the International Rowing Federation, procedures were changed during the course of the Games and a mobile doping control station was set up at the rowing venue that allowed for a small number of blood tests to be taken. The temporary blood collection station at the rowing site was not, however, designed to cope with the number of athletes at peak times. This resulted occasionally in (unacceptably) long waiting times.

The four blood collection rooms at the Village Polyclinic were solely reserved for venipuncture purposes. However, the space in the blood collection rooms was quite limited for those people allowed to attend, i.e., blood collection officer, athlete, accompanying official, interpreter, members of the IOCMC and members of the IO Team. After a centrifuge for provisional blood collection was provided at the rowing site, the waiting times in the Polyclinic increased even further. Centrifuges had to be transported from room to room during the process.

At the Polyclinic, only one refrigerator was available for the storage of blood samples and this was located in one of the blood collection rooms. The IO Team observed several occasions on which the blood collection process in the room with the refrigerator was disturbed by blood collection officers who brought blood samples for storage into the refrigerator which were collected in the other blood collection rooms without a refrigerator. Sometimes the blood collection officers did not close the door after leaving their room. As windows of the refrigerator were transparent, sample code numbers were identifiable by the athletes, and/or accompanying persons who were in the process of blood collection in their Blood Collection Room. In addition, the IO Team observed several instances where the unlocked refrigerator was left unattended even with the door of the blood collection room wide open.

- **Notification and escorting:**

Athletes were notified of blood testing at the competition venue, as well as at the athletes' village. Some of the tests were performed with no advance notice; most of them, however, were "short-notice" tests. The latter are tests where the athlete must report for sample collection by a designated time, not more than 24 hours from the time of notification. Usually the athletes had to report to the



Polyclinic the morning following competition. In the case of short-notice tests, the Doping Control Guide indicates that an athlete may be accompanied by an escort, but that this is not compulsory. Usually, no escorts were used for short-notice tests. The NOC was responsible for transporting their athlete/s to and from the polyclinic.

- **Procedure:**

Athletes had the opportunity to select one package of blood collection equipment and the Bereg kit featuring a coded number. Blood collection officers took four tubes of blood to analyze for all parameters, and two tubes of blood to analyze for growth hormone. Tubes for whole blood with anti-coagulant EDTA-KE contained 2.7ml and the tube for serum with silicon serum separator gel and clotting activation factor contained 4.9 ml. The required blood volume was approximately 16ml for the four tubes and approximately 10 ml for the two tubes. From the point of view of the IO Team, these details concerning the process are not described sufficiently in the Doping Control Guide.

The IO Team's observations indicate that preparation for blood draws was appropriate. However, the IO Team observed several instances of poor mixing of the blood tubes immediately after drawing. The blood drawing itself was done properly most of the time. However, a couple of times the tourniquet was not released before the filling of the sampling tubes was finished. Officers mostly performed aftercare procedures in a proper manner as provided for in the Doping Control Guide. However, the IO Team observed on several occasions that bottles of drink/cups of coffee were put on the processing desk during the blood collection process.

Tubes containing the blood were centrifuged for approximately seven minutes after settling for 20 minutes. The athletes were asked to place the tubes into the centrifuge themselves without using gloves. After centrifugation, the athletes were asked to take them out of the machine and put them into the Bereg bottles again without using gloves. The filled tubes were in full view of athletes most of the time and were sealed and placed in the Bereg kits in the proper manner. During the last week of the Games, the IO Team observed several occasions where two athletes were introduced into one blood collection room at once, and a blood collection officer performed the procedure on the two of them in turn.

- Documentation:

Doping control forms for blood collection were adequate and available in all blood collection rooms. The IO Team observed no major irregularities in the documentation process. However, blood collection officers most of the time did not note down a history of medication that affected clotting (e.g., aspirin, non-steroidal anti-inflammatory agents) and any bleeding disorders, even if the athletes took non-steroidal anti-inflammatory agents.

- Time:

In the blood collection rooms, athletes and accompanying officials often complained about the length of time for the blood collection process; 10 minutes for relaxing, five minutes for blood draw, 20 minutes for coagulation, seven minutes for centrifugation and five minutes for processing; a minimum of 45 to 50 minutes in total. Quite often there was a long line of athletes in the waiting room in readiness for giving samples. As with urine sample collection, the IO Team's opinion here is that the waiting times were not utilized effectively. Sufficient information was not provided.

This is particularly awkward for blood controls because the information standard of athletes here is at an even lower level than for urine controls. All of the options for distributing information already mentioned for testing urine samples should definitely be used for this purpose as well.

- Equipment:

There were adequate supplies and equipment, e.g. blood collection kits and the Bereg kits, at the polyclinic. However, the IO Team observed that sometimes only one tourniquet was shared by two blood collection officers. This should be avoided in the future. In addition the IO Team observed on some occasions that swabs and rubbing alcohol were not in sealed bags before use. Adequate fluid was provided to the athletes in the waiting area.

• **Staff:**

Blood samples were drawn by blood collection officers who were authorized phlebotomists under the responsibility of ATHOC. Most of them were medical doctors. The behavior of staff was friendly and professional in the majority of cases.

#### **RECOMMENDATIONS**

- *General improvement of information about blood collection procedures, particularly prior to the commencement of competition. The team physicians' meeting must cover practical topics for team doctors, and details of doping control procedures must be on the agenda. The Medical Director and the manager of the Doping Control Services Program must be present at the meeting in order to respond to concrete questions by the team doctors.*
- *The waiting time for athletes before and during the blood collection must be reduced. In this respect, methods of speeding up the procedure should be implemented, such as:*
  - *using tubes containing coagulation enhancer in order to start centrifugation earlier,*
  - *allowing doping control officers to handle the tubes for centrifugation with the permission of athletes,*
  - *providing more blood processing rooms, in particular providing mobile blood collection stations for venues far away from the polyclinic.*
- *Improving the standard of hygiene in the blood collection room, such as:*
  - *Eating and drinking should in principle not be allowed in the blood collection room. However, if the waiting time exceeds 30 minutes, the athlete is allowed to have drinks or food with him. Bottles and food should not be placed on the processing desk, but kept with the athlete,*
  - *Alcohol swabs must be sealed before use.*
- *Improving security for storage of blood samples, such as:*
  - *Access to storage refrigerator must be restricted to authorized personnel unless locked,*
  - *Refrigerator door must not be transparent, or the refrigerator should be placed in a separate room.*
- *Improving the assurance of athlete privacy and confidentiality, such as:*
  - *Blood samples shall be collected from only one athlete at a time,*
  - *The blood collection room door should be closed during the process.*

## **BREATH CONTROL TESTS**

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The Doping Control Guide (Appendix 2 Article 7) stipulates that athletes selected for breath testing for alcohol be tested using a breathalyzer. Should a result above the reporting threshold as outlined in the Prohibited List be obtained with the first breathalyzer test, a second test will be performed with a second breathalyzer. Should the result also be above the threshold, this indicates the presence of a prohibited substance. The athlete has committed a possible anti-doping rule violation. All results must be recorded on the alcohol testing form.

The IO Team observed a number of breath control tests. No irregularities as to the procedure were observed.

# III. DOPING CONTROL LABORATORY (DCL)

## OVERVIEW OF THE PROCESS

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### 1. Introduction

As the full responsibility for Laboratory accreditation was taken over by WADA from IOC on January 1st 2004, the Summer Olympic Games (OG) in Athens were the first Games with a Doping Control Laboratory (DCL) strictly operating under WADA International Standards.

The laboratory belongs to the Greek Ministry of Sports, was founded in 1986, and is IOC (1996) and ISO accredited (2000). In 1997 the lab performed the doping control of the World Championships in Athletics. The DCL has been accredited as a national horse racing laboratory since 1998. The Athens Laboratory has been assessed by ESYD, the national accreditation body, according to the ELOT EN ISO/IEC 17025 accreditation to the entire infrastructure: staff, building, instrumentation including permanent and temporary. This procedure required 3 ESYD assessments within 2004 and a WADA/IOC assessment to test ISO/IEC 17025 and WADAC and International Standard for Laboratories (ISL) compliance. The latest Scope of Accreditation of the DCL was issued on 2004.08.09 by the Hellenic Accreditation System SA as Annex to Certificate No. 1, four days before the start of the OG. The DCL cost more than Euro 6,000,000.00 to establish, comprising permanent and temporary investments to the laboratory infrastructure. Its infrastructure consists of staff, laboratory building and instrumentation-new technologies (qualitative and quantitative).

### 2. Staff

The total number of personnel for the Olympic Games at the DCL (permanent and temporary scientific and technical staff) was approximately 125 persons, with additional support personnel and engineers (approximately 20 persons). The staff worked in 3 shifts per day covering 24 hours of operation from the period of the opening of the Olympic Village up to the end the Olympic Games. The staff was divided in 6 categories:

- (1) *Permanent OAKA staff:* 15 persons
- (2) *Temporary Staff of Professional level:* 30 persons, student scientists in graduate studies. The working period was 1/3/2004-31/9/2004
- (3) *Temporary Staff of technical level:* 50 persons, students in the last year of their studies which worked on a volunteer basis
- (4) *Assistant staff consisting of secretaries and other general assistants:* 6 persons
- (5) *Experienced Scientists from other WADA Accredited Laboratories (see Appendix 9):* 17 persons
- (6) *Athens Genimatas Hospital blood transfusion team:* 8 persons.

### 3. Accommodation

#### 3.1 Building

A new laboratory building was constructed in 2002-2003 and is located in the north edge of OAKA. The DCL is very close to the crossroads of the two main streets of Athens: Kifissias (north-south) and Attiki (east-west). There is also a metro station 200 m from the laboratory. This geographical position of the laboratory building therefore facilitates visits and access without traffic problems.

### **3.2 Power facilities**

There are several building machineries located in the basement and on the roof of the laboratory:

- **Basement:** electric generator 250 Kilowatt and oil tank for two days independent operation in full power, UPS 250 Kilowatt with on-line operation of all instruments and computers, air compressor, nitrogen generator for the LCMS and solvent evaporation, gas cylinders room, water tank and compressors, water heater, long term storage freezers.
- **Roof:** air conditioning units, water coolers for the HRMS. This infrastructure can support laboratory operation for several days even in the improbable situation of severe damage to the city network supplies.

## **4. Equipment**

### **4.1 Instruments**

The Laboratory had new and upgraded equipment (see Appendix 10). The upgrade was qualitative (new technologies) and quantitative (to fulfill the 180 samples/day 24 hour reporting specifications). Instruments were acquired by a variety of means: DCL purchase, Greek government purchase for reselling, rental and IOC purchase funding and reselling.

### **4.2 Computer systems**

The computer local area network (LAN) encompassed approximately 100 computers and supported all Laboratory operations. In relation to their tasks, there are four types of computers:

- (1) Instrument computers ran under WIN2000 Pro or WIN XP Pro, dedicated for the control of the instruments and data evaluation.
- (2) Administration computers ran under WIN2000 Pro, used for secretary, registration, organization or regulation jobs.
- (3) Building facilities and machinery control computers
- (4) Server computer that supported the entire filing system of the laboratory, back up and users' computer access and protection.

As an *ad hoc* service to the IO team there was also a dedicated stand-alone PC that was made available during the Games.

Although the LAN worked well, other communication facilities were less successful. The telecommunication facilities of the DCL were poor because the new telephone/fax network was not completed on time. As a consequence only one low speed line and one rather old fax machine was available to send test reports and to receive fax letters.

### **4.3 Data management**

The quality system was supported by the Laboratory Information Management System (LIMS) computer system. All documents, SOPs and working forms were in PDF format, electronically signed and in one copy. Only that copy was accessible and valid for use. This ensured that all members of staff always used the latest version of documents and forms. Several custom-made software databases assisted the laboratory information management and use.

## **5. Security**

The OAKA Olympic site was one of the highest protected and secured areas in Athens. No other operations or activities, except doping control analysis, were held in the laboratory building. The laboratory premises, fully enclosed by fences, were secured around the clock by both armed police and military forces. Besides these armed forces at the gate of the premises a reception desk clerk was on duty. All persons (staff and visitors) had to pass full physical security checks each time they entered the DCL. A full access control system, through the use of electronic cards, was applied to the laboratory itself and all inside laboratory rooms. Classification of the access of the staff was controlled by software. A doorman controlled access to the building 24 hour per day, 7 days a week in three shifts per day. The doorman also informed the laboratory staff of any problematic situations. Visitors had to pass a double locked entry, guarded by a door, into a hallway. Here guarded loose leaf in/out time logs had to be completed. Couriers had to transfer the bags with samples to laboratory staff and visitors had to wait for a lab escort and a temporary accreditation for lab entrance. From this hall only one locked door gave access to the laboratory rooms. In general, this procedure worked well although from time to time some irregularities of varying importance had been observed such as time log entries that were made unreadable by correction fluid, persons that had not signed out after leaving the DCL and visitors with no visible accreditation. An electronic time logging device present in the hall was not operational. The IO team was provided with a master electronic key card that gave free access to all laboratory facilities at all times.

## **6. Testing capacities (urine and blood test)**

### **6.1 Specifications**

In general, the routine capacity of WADA laboratories includes a reporting time within 10 working days. More demanding specifications exist for the Olympic Games Laboratories. It is the first time that an Olympic Laboratory was prepared to report positives in 36 hours as the reporting specifications at previous Games was 48 hours. The daily capacity during Olympic Games was 180 samples/day, reporting to the IOCMC of the negatives in 24 hours, positives in 36 hours (72 hours for EPO positives) with an average of two positive sample procedures per day. The total number of samples was 3505.

From these statistics noted in Appendix 11 it is evident that on 5 of the 16 days of the Games the DCL had to test more samples, with a maximum of 280. Although this exceeded the specifications, no irregularities or relevant difficulties were observed in managing this workload.

### **6.2 Statistics**

In total 2,796 samples of urine were tested for all prohibited substances and methods for which accredited methods were operational. In total 709 samples of blood were collected, with samples of whole blood tested for blood transfusion, reticulocytes (%), hematocrite and haemoglobin, and samples of blood serum tested for rhGH.

During the Olympic most of the adverse findings from urine samples related to anabolic steroids (stanozolol, methyltestosterone metabolites, methandienone metabolites, testosterone). The beta-agonist clenbuterol, the diuretic furosemide and the stimulants cathine, ethamivan and heptaminol were also found.

*NOTE THAT ALL FINAL STATISTICS ARE TO BE CONFIRMED BY THE IOC IN THEIR PENDING REPORT.*

### 6.3 Analytical Procedures

The analytical procedures are those referred to the World Anti-Doping Code and the International Standard for Laboratories (ISL). The Doping Control Laboratory in Athens undertook all responsibilities for the accreditations, reporting and acceptance of the external audits referred to the ISL.

During the Games at the DCL tests were only performed on blood (whole blood, blood plasma and / or blood serum) and on urine. After screening the A-sample a suspect adverse analytical finding ("positive") had to be confirmed with a new aliquot of the A-sample and a confirmatory test. B-sample analysis in general was only performed with the confirmatory test. No irregularities have been observed in performing these procedures.

- **Instrumental technologies applied:**

In the testing, the following instrumental analytical technologies were applied:

- Gas chromatography with nitrogen detectors (GC-NPD) for low molecular weight stimulants
- Gas chromatography with quadruple mass spectrometry (GC-MSD) for small molecules like stimulants, narcotics, steroids, diuretics etc.
- Gas chromatography with combustion isotope ratio magnetic sector mass spectrometry (GC-IRMS) for the measurement of  $C^{12}/C^{13}$  isotope ratio, to discriminate endogenous steroids from exogenously applied steroids like testosterone
- Gas chromatography high resolution mass spectrometry (GC-HRMS) to detect low to very low levels of anabolic agents
- Liquid chromatography tandem ion trap mass spectrometry (LC-MS-MS) for small polar compounds like corticosteroids and fragmented proteins
- Gel permeation liquid chromatography with UV for the detection of blood products
- Enzyme Linked Immunosorbent Assay (ELISA) with chemiluminescence detection and radioimmunoassay (RIA) with gamma radiation detection for measuring human Growth Hormone (hGH and rhGH) and human Chorionic Gonadotropin (hCG)
- Isoelectric Focusing Electrophoresis with chemiluminescence detection for proteins like EPO and blood products
- Biochemical and fluorescence analyses for glucose and protein measurements in urine
- Flow cytometers with laser detection for (immunochemical) blood cell analysis

- **Blood Testing:**

During the Games, blood tests were conducted only for detection and/or proof of doping. In addition to the determination of the percentage of reticulocytes, the determination of hematocrit and haemoglobin three new parameters were introduced: haemoglobin based oxygen carriers (HBOC), human growth hormone (hGH) and blood transfusion. The determination of the percentage of reticulocytes as well as the determination of hematocrit and haemoglobin was performed by autoanalyzer flow cytometry techniques with a turn-around (reporting) time of maximum 24 hours for non-adverse ("negative") analytical findings and a maximum of 36 hours for adverse analytical findings.

- Screening:

Haemoglobin based oxygen carriers (HBOC) were screened by electrophoresis or High Pressure Liquid Chromatography (HPLC), depending on the individual HBOC. The determination of HBOC was a highly specialized activity performed by a dedicated team. Due to long lasting incubation steps in the analytical procedure the maximum reporting time for an adverse analytical HBOC finding was extended to 48 hours.

Human growth hormone (hGH) and its recombinant synthetic analogues (rhGH) were determined and discriminated by a serial differential application of two different Enzyme Linked Immunosorbent Assays (ELISA) with final quantification via a fluorescent Europium label. For hGH the turn-around time was maximum 24 hours for non-adverse analytical findings and a maximum of 36 hours for adverse analytical findings.

The testing for blood transfusion was based on the discrimination via laser flow cytometry and immunochemical fluorescence detection of red blood cell (RBC) populations present in the sample. In the case of blood transfusion(s) above a certain percentage of foreign blood in the sample two (or more) populations have to be observed in the cytometric histograms. The application of the analytical methodology on the homologous blood transfusions, required the agreement of the Hospital "Genimatas," Athens, Department of Immunology, Laboratory of Flow Cytometry and ATHOC. Staff of the Laboratory of Flow Cytometry was temporarily incorporated to the Doping Control Laboratory under the responsibility of Georgios Paterakis, MD. For blood transfusion testing the turn-around time was maximum 24 hours for non-adverse analytical findings and a maximum of 36 hours for adverse analytical findings.

- Confirmation:

Confirmations of HBOC were performed by liquid chromatography-mass spectrometry (LC-MS) ion trap technology. Confirmations of hGH and rhGH were performed by ELISA with different antibodies. It was observed that the quality controls of this test were biased towards the prevention of false adverse analytical findings and less to prevent false negative test results. Confirmation of blood transfusion was performed with different minor blood group antibodies.

• **Urine Testing:**

- Screening:

To screen urine for the large battery of various doping substances, 10 parallel analytical "wet chemistry" groups (procedures) were applied. For the first seven groups organic solvents were used to extract the substances from the sample aliquots.

These groups were:

- (1) Screening for volatile nitrogen containing compounds (procedure I) covering mainly stimulants like amphetamines and some narcotics.
- (2) Screening for "heavy" (non-volatile) nitrogen containing compounds (procedure II) covering mainly stimulants like ethamivan and heptaminol and some narcotics.
- (3) Screening for beta-blockers (beta-antagonists) like alprenolol.
- (4) Screening for combined free and conjugated anabolic agents (procedure IV – GC-MSD) covering mainly steroids like testosterone and its metabolites.
- (5) Screening for combined free and conjugated anabolic agents (procedure IV – GC-HRMS) covering mainly steroids like stanozolol metabolites and oxandrolone but also some beta-agonists like clenbuterol.



- (6) Screening for combined free and conjugated anabolic agents (procedure IV – LC-MS) covering mainly corticosteroids like dexametasone and prednisone.
- (7) Screening for diuretics like furosemide by GC-MS (procedure V, TME 107).
- (8) Screening for human Chorionic Gonadotropin (hCG) by iodine gamma RIA (procedure VI, TME 109, TME 110 )
- (9) Screening for EPO and recombinant analogues by ELISA.
- (10) Screening for plasma expanders like hydroxyethyl starch by automated biochemical analyzer (COBAS) and GC-MSD follow up (TME 123).

- Confirmation:

For confirmation of screening suspect adverse analytical findings in urine the same wet chemistry was applied as for screening. Except for groups eight and nine, for all other groups the confirmatory test was based on MS applications with instrumental modes that differed from the screening mode (different resolution, more diagnostic ions, etc). For endogenous steroids like testosterone, carbon isotope ratio MS (IRMS) was applied. For hCG confirmation, ELISA was applied. For EPO confirmation, iso-electric focussing with subsequent blotting and immunochemical detection was applied. For plasma expanders' confirmation, GC-MS was applied.

## **7. Processes observed**

### **7.1 Statistics**

Although at the beginning of the Games the DCL observations were scheduled by the IO office as "three to four days per week and as requested", in practice it turned out to be necessary to observe the DCL all days during the Games to cover most off the activities and nearly all B sample analyses in particular. From August 14 up to August 30 2004 the average daily IO team observation time was 3¼ hours with a maximum of 10 hours. For the 16 days of the Olympic Games the total time of presence at the DCL for the WADA IO team was 100 hours in 31 visits and for the IOC Laboratory Support Group (IOC LS Group) 100½ hours in 60 visits, respectively. The number of visits and the distribution of the visiting time across the individual members of both groups are summarized with some statistics in Appendix 12. An overview of the process observed can be found in Appendix 13

### **7.2 Language**

It was the first time that an IO team at the Olympic Games had to cope with a language (Greek) at the DCL that was not English. This language was used for the vast majority of the laboratory documentation such as standard forms, operating protocols or management instructions, all in Greek alphabet, which was not an understood language of the IO laboratory expert. English translations of documents in Greek in general were not available. As a consequence the IO core task to "Observe and Report" under these circumstances had to be extended to "Observe, Ask and Report" to make the IO interpretation of the observations correct and meaningful and to avoid misunderstandings. Greek to English translations and interpretations occurred as needed orally on the spot and occasionally in writing. In practice this approach worked out satisfactorily although it was time consuming. It was observed and experienced by the IO that the borderline between asking and further communications in this linguistic exercise was not always clear. The potential for unwanted IO interference with the laboratory processes was therefore possible. However, no complaints about interferences were observed or received by the IO.

### **7.3 IOC Laboratory Support Group**

In addition to the regular visits of the IO team, the Athens DCL also received regular visits from the IOC "Laboratory Supporter" (LS) group consisting of four experienced Directors from other WADA accredited DCLs. The primary task of the LS group was to support the Director of the Athens DCL during result management of suspect or positive test results by advising him in decision making and by guiding him in the interpretation of IOC and / or WADA standards and requirements. The IOC LS group was also responsible for reviewing and approving the Laboratory Documentation Package (LDP) of all adverse findings ("positives") in A- and B-samples. Finally a member of the LS group was always present at each unsealing and opening of the bottle with a B-sample in case of a B-analysis. Three members of the LS group belonged to the bigger IOCMC Games Group and one member belonged to the IOCMC itself. As there was an appreciable overlap in visits by the WADA IO team and the IOC LS group, many observations could be made of the communication between the Director of the DCL and / or its senior staff and members of the LS group.

It was observed that the IOC LS group communicated very effectively with and was very supportive of the DCL director. From these communications it was observed, amongst others, that

- The IOC LS group was not involved in any of the DCL pre-games activities
- The DCL was not included in the recent WADA proficiency test for EPO in urine for reasons unknown to the DCL director
- The DCL director had to request the IOCMC for Quality Control (QC) samples
- Borderline cases were found for low concentrations of testosterone, morphine and stanozolol (2x) and that due to time constraints no special analytical follow-up could be given to those cases.
- Ethamivan and heptaminol adverse analytical findings caused confusion because these substances were not written explicitly on the list of prohibited substances. However, after specific consultation with WADA the findings still had to be considered as adverse as a related substance.
- A "look-alike" for THG was found with mass values identical to THG, however with a wrong match of MS intensities. The structure of the look-alike could not yet be resolved.
- Several corticosteroid findings, as a result of apparent TUEs, overloaded the laboratory for this group of substances. For such samples often the declared medication on the laboratory copy of the sample form was not legible.
- An hGH testing information session was given by the DCL to the plenary IOC LS group.
- The DCL had no access to the sports acronyms on the athlete forms.
- There was no adequate timing of IOC QC sample submission to the DCL.

### **7.4 Sample receiving procedures**

- **Handling:**

In the logging room transport bags were immediately unsealed and the sealed BERE boxes were checked for integrity and tampering. For each sample the sample code on the A and B-bottle and on the box was verified and typed into a LIMS database together with all relevant information from the sample form. For each sample a unique four digit laboratory code was assigned preceded by an A or a B for the A-sample and the B-sample respectively. After unsealing the A-bottle by forced breaking the plastic cap in a special BERE device, the sample was divided into aliquots for the various requested tests. The remaining part of the A-sample and the intact B-sample were securely refrigerated for short term

storage. For all handling of the samples in preparing aliquots and subsequent testing, whenever possible, single use disposable laboratory ware was used to avoid any (cross)contamination of a sample. For the different steps in the handling and testing procedures, "step-by-step" forms were available to be mandatory cross-checked and signed by the operating analyst after completion of each step. After testing urine samples for pH (by commercial pH strips) and specific gravity (by refractometry), the sample aliquots were redistributed in lots for the different "wet chemistry" extraction and clean-up procedures.

It was observed that fluctuations in the logging room temperature (18 to 26 degrees centigrade on the wall thermometer) were not accounted for in the calibration of the refractometers that were not thermostated. The refractometers (like those in the DCS) were calibrated by the manufacturer at 20 degrees centigrade and showed actual temperatures between 25 and 27 degrees centigrade. This observation together with the individual analyst imprecision of the refractometer readings will have an uncontrolled impact of unknown magnitude in quantitative testing for threshold substances, like nandrolone. It also might have an appreciable impact on the test result uncertainty due to the specific gravity correction formula as laid down in the ISL. Except for the remarks about the specific gravity, no relevant irregularities were observed in the handling of samples for screening.

- **Corrective action reports (CAR) in case of irregularities:**

No documented CAR was observed or supplied to the IO Team via the IO office. On 2004.08.22 one CAR was submitted to the IO member on site by the DCL Director. This CAR dealt with the breaking of an A-bottle from the BREG-kit during the unsealing procedure of a urine sample. It was the first case during the Games although already two more similar cases of broken A-bottles occurred during the pre-games testing. As corrective action the content of the intact B-bottle was analysed. This analysis showed no adverse analytical findings. In the CAR an inconsistency between various dates was observed. Another adequate corrective action was observed on site caused by an improper communication between rotating personnel shifts. Specifically, a sample of urine that had to be reprocessed in screening escaped attention. Proper control action, however, disclosed the irregularity and the failure was remedied in a timely manner by the Director of the DCL.

## **7.5 Laboratory work**

- **Overview:**

The lots of samples were transferred from the logging room to the separate wet chemistry laboratory and processed according to the respective SOPs. Final sample extracts suitable for instrumental analyses were transferred to the respective separate instrumental laboratory sections for final analyses. It was observed that the prohibited substance groups S5 (Peptide hormones) and S7 (Agents with anti-oestrogenic activity) were not yet fully covered during the Games. Test results were evaluated by qualified analysts and screening documentation packages were compiled for each batch in separate batch folders. Documentation related to suspect or adverse analytical findings were compiled per sample in separate individual sample folders. These two documentation packages were the source for the ISL required Laboratory Documentation Package (LDP) that was prepared for each adverse analytical finding. In case of a B-analysis the LDP for the B-sample was the LDP for the A-sample amended with the test result data of the B-analysis.

Before any adverse analytical finding was reported, two members of the IOC LS group together with the DCL director had to review, discuss and approve the LDP for the respective sample. It was observed that only LDPs for A-samples were approved by signatures of the IOC LS group. LDPs for B-samples systematically were not signed after review and approval by the IOC LS group. This was explained by the DCL director as being an IOC rule. He did not know the rationale for this rule, which in the opinion of the IO did not seem to make sense.

B-analyses were requested for urine samples only. During the IO duty period 10 B-analyses were performed, of which eight were observed. Two were missed near the end of the Games, one due to inadequate timing of information to the IO team, and the other because it was performed after completion of the IO mission (30 August 2004).

No relevant irregularities were observed in the laboratory work. However, it was noted that in some cases during the unsealing and opening of the B-bottle, the logging room was crowded with many people accompanying the athlete, with an extreme case of 13 persons in the room at one time. It also was observed that in this case no information was given about the finding of exogenous testosterone by carbon isotope ratio mass spectrometry (IRMS). Furthermore it was observed that the information given to the athlete and / or its representative(s) about the actual analysis of the B-sample in most cases was not completely understandable for these persons.

- **Quality Control (QC):**

The QC sample program of the IOC was observed as not very adequate. The first urine QC sample (negative) was submitted to the DCL not earlier than halfway through the Games. This sample immediately was recognized by the DCL as a QC sample because of its irregular sample volume and IOCMC approval of the low volume on the sample form. Two positive urine QC samples (nandrolone and cocaine metabolite, respectively) were received by the lab the day before the end of the Games. One or two QC sample(s) (furosemide and triamterene) were received on the last day of the Games. All QC samples were tested correctly by the DCL.

- **Blood testing:**

In total 709 samples of blood were tested (see statistics). Some samples of *whole* blood were tested for blood transfusion, reticulocytes (%), hematocrit and haemoglobin, while some samples of blood serum were tested for rhGH. No irregularities have been observed. One adverse analytical case of blood transfusion was observed by the IO team. No follow-up could be observed for this positive sample in agreement with the status of the test (for details, refer to Hamilton Case below). *(Note the official statistics specifying the number of each type of testing will be contained in the pending IOC Games Report).*

- **Urine testing:**

In total 2796 samples of urine were screened for a battery of compounds for which accredited methods were operational. Attempts to completely match the set of substances listed in the Scope of Accreditation with the compounds screened for in the different procedures, procedure II and IV in particular, in relation to the WADA List of Prohibited Substances were not successful. For this,

various reasons were observed. The Scope of Accreditation encompassed far less compounds than actually were screened for. This as such is not in conflict with the WADA rules for "Flexible accreditation," that is laid down as:

*Flexible accreditation (ISL 4.2.2.)*

*WADA accredited laboratories may add or modify scientific methods or add analytes without the need for approval by the body that completed the ISO/IEC 17025 accreditation of that laboratory. Any analytical method or procedure must be properly selected and validated and included in the scope of the laboratory at the next ISO audit if the method is used for analysis of Doping Control Samples.*

The DCL Scope was issued ten days before the start of the Games. It is not known whether within these ten days the non listed substances were included and adequately validated. As a consequence the observed deficiency has to be considered as an irregularity. Furthermore for many of the substance listed in the Scope to be identified or determined, the metabolites of the substances, which have completely different chemical identities were identified or determined. In addition, the Scope identified some substances listed in the wrong category. These irregularities, however, did not compromise the validity of the screening test because it was observed that the actual set of substances used for calibrating the test procedures was larger than documented in the Scope (e.g., Zeranol and Tetrahydrogestrinone) or in the 2003 DCL IOC/WADA re-accreditation report (e.g. Bromantan and Cathine).

During the Games a total 10 samples of urine with adverse analytical findings were reported by the DCL. Most of the adverse analytical findings related to anabolic steroids and their *metabolites* (stanozolol, methyltestosterone, methandienone, testosterone and oxandrolone). The beta-agonist clenbuterol, the diuretic furosemide and the stimulants ethamivan and heptaminol were also found.

## **8. Summary**

The observations of the IO lab expert were in particular focused on the implementation of the WADA ISL and the ISO accreditation, the communication and cooperation between the DCL and the IOC LS group. Reviews were focused on data management in general and LDP with chain of custody in particular. Observations of technical processes were focussed on the B-analyses, isotope ratio MS application and testing for hGH, EPO and blood transfusion. From all observations combined it is summarized that no relevant irregularities were observed in technical matters. Here the actual performance of the DCL is better than can be revealed from underpinning reference documents. However, the IOC QC sample program functioned in an inadequate way.

## **RECOMMENDATIONS:**

- *Before each Olympic Games or other major event the IO laboratory expert team should be actively informed by the WADA, in co-operation with the DCL, about DCL underpinning reference documentation. This documentation should be in the WADA prevailed language and cover all DCL pre-games activities.*
- *For the DCL the relation between scope of accreditation and actual testing should be made more transparent and consistent.*
- *The status and activities of the IOC LS group should be laid down in the Regulations.*
- *The IOC LS group should be involved in DCL pre-games activities to review and comment on testing programs and quality assurance.*
- *The arguments why border case potential adverse analytical findings finally are qualified as negative should be documented and archived to prevent the waste of this valuable "soft information."*
- *The actual temperature in the logging room should be controlled and documented because this temperature might affect the specific gravity measurement.*
- *The error propagation effect on the uncertainty of quantitative test results should be established in case the ISL correction factor for specific gravity has to be applied.*
- *Information material should be prepared to adequately inform athletes and accompanying persons of the \*B\* Sample analysis process.*

## IV. THERAPEUTIC USE EXEMPTION (TUE)

### OVERVIEW OF PROCESS

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#### 1. Introduction

If an athlete requires medication that contains a prohibited substance named in the List of Prohibited Substances and Methods, he or she can take this medication without violating anti-doping rules if an exemption has been obtained. Athletes can apply for an exemption via a formal process called the Therapeutic Use Exemption (TUE) process, which is governed by Article 4.3 of the ADRIOC in conjunction with Article 8 of the Doping Control Guide. The condition for granting a TUE is generally that the athlete would experience a significant impairment to health if the prohibited substance or prohibited method were to be withheld in the course of treating an acute or chronic medical condition. Moreover, the therapeutic use of the substance must not produce significant enhancement of performance. Lastly, a TUE is issued only if there is no reasonable therapeutic alternative to the use of the otherwise prohibited substance or method. The ADRIOC draws a general distinction between two different TUE processes: the standard TUE process and the abbreviated TUE process (ATUE).

The standard TUE process differs depending on whether or not the athlete has already been granted a TUE by an IF.

- If the athlete has already been issued a TUE by his or her IF in the period preceding the Olympic Games, he or she is obliged to notify any other relevant anti-doping organization and, therefore, also the IOC, about receipt of a TUE no later than the date of the opening of the Olympic village (July 30, 2004). The IOC then verifies whether the TUE was issued in compliance with the international standards. The exemption, as well as the athlete's complete medical file, must be submitted for this purpose.
- If the IOC believes that the exemptions issued by the IFs are not in compliance with the relevant rules, it must inform the IF concerned and WADA. WADA will then have the opportunity to review the decision. The IOC, however, cannot overrule the IF's decision.
- During the period of the Olympic Games, i.e., between July 30, 2004 and August 29, 2004, the IOC as an anti-doping organization is exclusively responsible for issuing TUEs valid during the Games. The athletes were required to use the standard forms available at the IOCMC Office at the Polyclinic and submit them to the IOCMC office in the Polyclinic.

The acknowledgement or issuance of a standard TUE does not take effect until the decision has been received by the applicant.

The ATUE process involves certain substances on the List of Prohibited Substances that are known to be used to treat medical conditions frequently encountered in the athlete population. The prohibited substances or prohibited methods that may be permitted by way of this abbreviated process are strictly limited to inhaled beta-2 agonists and glucocorticosteroids taken by non-systematic routes. Whereas the Doping Control Guide refers to the International Standard for Therapeutic Use Exemptions with regard to the ATUE process for corticosteroids, it stipulates a different ATUE process for beta-2 agonists. Athletes who request permission to inhale a permitted beta-2 agonist are required to submit test results with objective evidence of asthma and/or exercise-induced asthma (EIA) or exercise-induced bronchoconstriction (EIB). A simple notification

from a respiratory or team physician stating that the athlete has asthma and/or exercise-induced asthma (or exercise induced bronchoconstriction) was no longer acceptable as evidence. The measurement of FEV1 and its change from baseline in response to either an inhaled bronchodilator or a bronchial provocation test was the minimum test information required to be obtained and reported on the application form. This requirement was published by the IOC on its Website on July 29, 2003 and sent by circular letter to all IFs concerned on August 11, 2003. This was in response to the recommendation (No. 9) in the Sydney Olympic Report that stated that a medical file be submitted with written notification of the use of beta-2 agonists in order to evaluate their necessity. In contrast to the standard TUE process, in the ATUE process the athlete can invoke an exemption as early as when the complete application is received by TUEC and as long as the application has not been rejected.

A committee, called the TUE Committee (TUEC), appointed by the IOC Medical Commission is responsible for the TUE process within the IOC. For the ATUE process for beta-2 agonists, this committee comprised: Chairman Professor Ken Fitch (Australia) and Dr. Sandra Anderson (Australia); Dr. Malcolm Sue Chu (Norway); Prof. Don McKenzie (Canada); Dr. Ken Beck (USA); and Dr. Christina Gratziou (Greece). For all other TUE processes, the committee's members Prof. Ken Fitch (Australia), Prof. Patricia Sangenis (Argentina) and Prof. Don Catlin (USA).

Regardless of which of the aforementioned processes is followed, Article 4.3.3.1 of the ADRIOC stipulates that "WADA, at the request of an athlete or on its own initiative, may review the granting or denial of any TUE to an athlete. If WADA determines that the granting or denial of a TUE did not comply with the International Standard for Therapeutic Use Exemptions then WADA may reverse the decision." These decisions can be further appealed to CAS.

## **2. Statistics**

(To be published in IOC Games Report)

## **3. Observations**

### **3.1 Rules and regulations**

The provisions regarding the TUE process in the ADRIOC and the Doping Control Guide are convoluted and ultimately governed in a way that is difficult to understand. For example, the issues of whether and when the TUEC must notify the applicant (receipt of the application, rejection notice, approval notice, etc.) and the time from which the athlete may invoke or count on an exemption (upon submission of the application, upon issuance of the TUE, upon receipt of the TUE) are not governed by the rules and regulations. For this reason, it is not surprising that the TUE process in particular was discussed extensively and especially passionately at the team physicians' meeting. It was clear at the meeting that the IOC was under enormous pressure to deal with the large number of TUE applications it had received. Consequently and extraordinarily it was explained that the IOC would not act on any positive findings in any case where TUE application had been submitted but a rejection had not been issued. This approach was apparently designed to provide more breathing space for the IOC TUEC. The reference in the Doping Control Guide to a circular letter published on the Web site of the IOC is also a source of confusion. It is complicated enough to decipher the relationship between the Doping Control Guide, the ADRIOC and the International Standard, and the additional reference to the circular letter contributes little to transparency and understanding of the process. In addition, the circular letter and the Doping Control Guide contradict each other. For instance, the circular letter states that "applications for athletes to inhale beta-



2 agonists in Athens should be forwarded to the IOC medical Director as soon as possible after August 13, 2003 and before August 6, 2004.” However, Article 8.2.2.1 of the Anti-Doping Guide reads: “applications ... will have to be sent to the IOCMC before July 30, 2004.” All of this is very difficult to understand and in any case requires improvement and should be in compliance with the International Standard for TUEs.

### **3.2 Administration of the TUE process**

The IO Team appointed members to study and observe the administration of the TUE process. Two formal meetings were held with the chairman of the IOC TUEC Prof. Ken Fitch on August 17, 2004 and August 24, 2004. TUE applications available for review were inspected, some cases pending and denied were noted, and some discussions held.

For concrete reasons, observation of the TUE process was difficult because sufficient documentation (was often unavailable) that could have been used to monitoring the actual process as it unfolded.

- According to the information provided to the IO Team, all applications received prior to the Games for use of beta-2 agonists were transmitted by PDF file to the members of the TUEC. The members then produced a decision in writing of which the athletes, the respective NOC and the IF were notified. Whether and when this notification was given, and the basis on which it was issued, could not be determined by the IO Team. The information provided by the TUEC and the team doctors of the relevant NOCs regarding this topic were in any case quite contradictory. On-site documentation that could have clarified this issue was not available. According to statements by the Chair of the TUEC, most of these documents were stored by Dr. Sandra Anderson in Australia. The IO Team only saw a summary Excel file with details of applications and rejections, as well as letter templates.
- Other aspects of the process were also insufficiently documented. Article 4.3.3 of the ADRIOC refers to this process, stating that the TUEC shall promptly evaluate new requests in accordance with the International Standard for Therapeutic Use Exemptions and render a decision on such request, which shall be the final decision of the IOC. There were no records of any meetings or consultations of the TUEC in Athens. It appeared as if Prof. Fitch was solely responsible for the entire decision-making process. Whether the applications were promptly evaluated or not could not be verified by the IO Team. No dates of submission of the application, dates of response or copies of discussions with other members of the TUEC were recorded. On the whole, the IO Team had the impression that administrative documentation of the applications was inadequate; the filing and records management systems appeared to be solely in the domain of the Chair and consequently only decipherable and understandable to him.

The IO Team was, however, able to review by random sampling whether and the extent to which the decisions made by the TUEC corresponded to the requirements of the ADRIOC and the Doping Control Guide in terms of their content. In this regard, the IO Team felt that the applications were processed in an objectively correct and accurate manner. That applies to the decisions both in favor of and against applications. The quality of the decisions is also underscored by the fact that only one was brought to the WADA TUEC for review, and WADA TUEC denied the athlete’s application for review.

Attention must be drawn to the fact that the application forms for granting of TUEs for the Olympic Games were at times unavailable in the Polyclinic. The IO Team would also like to note that out of more than 900 TUEs already issued by the IFs and submitted by athletes, no requests were submitted by the IOC TUEC to WADA for a review as provided

for in Article 8.1.1 of the Doping Control Guide. The inference could be drawn that all of the TUEs were issued by the IFs in accordance with the respective standards. However, the IO Team based on observations considers it more likely that the TUEC did not have the human resources capacity to verify conformity of these TUEs with the respective standards.

Another responsibility of the TUEC was to crosscheck the copies of the laboratory results in which prohibited substances were present with the TUE applications in order to ensure whether proper TUE applications were made. This was done by Prof Ken Fitch. Here again the IO Team was left with the impression that this task was made more difficult by an inadequate filing system (e.g., there was no numerical system in place for cross-referencing). Due to this filing system, at no time would another person have been easily able to take Prof. Ken Fitch's place—that person would not have ultimately been able to find the relevant documents. No documentation of the timeline of the process (date of inquiry, date of answer, etc.) was available for crosschecking purposes.

Lastly, the IO Team would like to note that Prof. Ken Fitch is not only Chair of the IOC TUEC, but also Chair of the WADA TUEC. At first glance, this could pose conflicts of interest because the WADA TUEC is responsible for reviewing decisions made by the IOC TUEC (see Article 4.3.3.1 of the ADRIOC). In this concrete case, the conflict of interest was avoided by having Prof. Ken Fitch temporarily suspend his position as Chair of the WADA TUEC for the period of the Olympic Games. Consideration should be given to the idea of whether the IOC TUEC process requires conflict-of-interest rules, as for all other processes, to safeguard confidence in and transparency of the TUE process.

#### **4. Conclusions**

The IO Team is of the opinion that the rules governing the process for acknowledging or issuing TUEs are not detailed enough. Moreover, the IO Team believes that the IOCMC did not provide sufficient staff to conduct the administrative duties associated with the responsibilities assigned to the TUEC in Athens in a manner commensurate with the importance of the task and the number of applications. The IO Team has not overlooked the fact that there are difficulties involved in administrative documentation of the applications, because not all applications were submitted electronically or using the correct forms. Some applications were also incomplete and difficult to read. From time to time the country of origin of the applicant was not clear, as some athletes may reside in the United States or Europe, but compete for another country in other regions, for example in Oceania or the Caribbean, and their applications may come from a physician in their country of residence. This caused unnecessary delay in the reply.

Despite all of the aforementioned difficulties, the IO Team's opinion is that all applications must be documented individually with a file prepared for each case containing a record of the date of receipt, contents and date of the decision. The filing system must be designed for use by more than just one person. If the person responsible for processing the applications is unable to do so for whatever reason, a system must be in place so that another person can perform the work. Finally, provisions must be made so that electronic data is not stored solely on the private computer of the person processing the applications, but that back-ups or extra copies are made. Moreover, the applicant, the NOC and the IF should in all cases be informed of the receipt of applications and the respective decisions.

## RECOMMENDATIONS

- *The IO Team recommends that the rules governing the TUE process be more detailed and a more formal structure for administration of the TUE process (filing, notification, back-up, etc.) be established. Moreover, the TUEC should be equipped with an administrative office and staff as soon as possible so that the Committee can perform its administrative activities properly and in a way that is comprehensible to third parties at all times.*
- *The difficulties described in this report must lead to the recommendation that a review of the necessity of such a burdensome procedure for both the teams and the IOC must be ongoing.*
- *It is apparent to the IO Team that the IOC requirements regarding TUEs creates an anomaly with respect to the International Standard that limits TUE applications from any athlete to one body. It is clear that the IOC decision on such applications has no ongoing validity and that applications to the relevant IF is also necessary.*
- *Lastly, the IO Team believes that the IOC must implement improved measures to ensure better dissemination of information about the complicated TUE process to the various participants.*

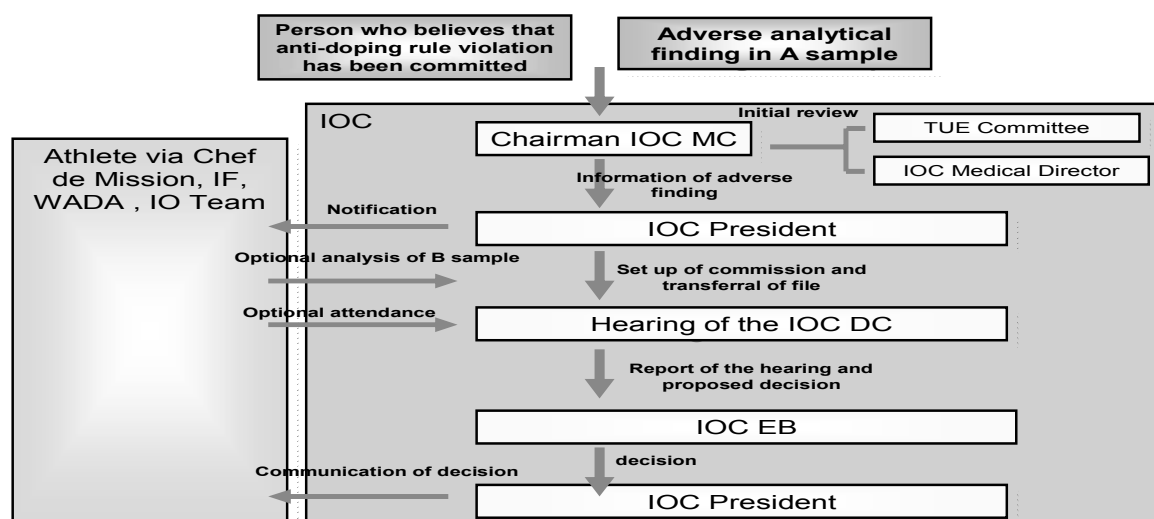
## V. RESULT MANAGEMENT PROCESS

### OVERVIEW OF THE PROCESS

#### 1. Results Management by IOC

Results management for doping tests initiated by the IOC is in the exclusive jurisdiction of the IOC.

The results management process is based on Article 7 of the ADRIOC and is conducted primarily according to the principles described as follows. Results of the laboratory tests or any other accusations of anti-doping rule violations are reported to the Chair of the IOCMC directly. The Chair of the IOCMC then initially handles the results process. Assisted by the IOC Medical Director, the Chair of the IOCMC shall identify the athlete and verify whether the results in fact constitute an adverse analytical finding or whether it appears that any other anti-doping rule violation may have been committed. Should the initial review uphold the anti-doping rule violation, the Chair of the IOCMC will inform the IOC President, who will then set up an IOC Disciplinary Commission consisting of three members to hear the case. The IOC President or a person designated by him shall inform the athlete, or other person(s) concerned, of the adverse analytical finding or apparent anti-doping rule violation, through the relevant chef de mission or representative. In addition, the President of the IOC will inform the IF concerned, WADA and the IO Team. After hearing the case, the Disciplinary Commission will present a recommendation to the President of the IOC and to the IOC Executive Board (IOCEB) who will then decide on the matter. The athlete is then notified of the decision by the IOC president or a person designated by him via the chef de mission. In addition, the IF concerned, WADA and the IO Team are informed of the decision.



#### 2. Process observed

The IO Team was invited to all of the IOCDC hearings and all except one of the IOCEB meetings in a timely manner. The IO Team took advantage of the opportunity to attend the hearings and meetings in all cases except the one in which it was not invited in time. The meetings and hearings were all conducted at the date and time indicated on the

notices or subsequent amended notices. The IOCDC allowed the IO Team to inspect all files and draft decisions. The full text of the decisions made by the IOCEB was immediately made available to the IO Team. The response to requests by the IO Team was prompt and thorough, and extensive additional information was provided immediately. The IO Team was not present at the deliberations of the IOCDC following the relevant hearings. Nor was the IO Team present at the stage of the initial review of the laboratory findings. However, it seems to the IO Team in particular from information provided after the end of the Games that this stage of the doping control process should be given more attention in the future (see Section VI).

## **2.1 Time limits**

The structure of each disciplinary procedure must be balanced between the principles of fairness and transparency on the one hand, and the desire for a rapid decision on the other. Of course, the latter is also an offshoot of the principle of fairness, because a clear decision must be obtained as quickly as possible about anti-doping rule violations and the subsequent consequences in the interest of the athlete involved, as well as in the interest of other competitors and the public. The lingering suspicion of an anti-doping rule violation discredits the reputation of the athlete involved, as well as the image of the sport in general. Article 7.2.15 of the ADRIOC therefore correctly stipulates time limits for disciplinary procedures. According to this provision, the time taken for a disciplinary procedure should generally not exceed 24 hours from:

- (1) the conclusion of the sample analysis (i.e., the A sample and, if requested, the B sample), or
- (2) in the case of another anti-doping rule violation, the time the athlete is informed of such anti-doping rule violation.

The overview in Appendix 14 shows that the time periods required by ADRIOC were generally complied with. Where this did not occur in individual cases, this was attributable to special circumstances that justified delaying the process:

- For example, in cases two and three, which were handled simultaneously, the special circumstance was that the athletes involved were in the hospital and the IOCDC was not able to ascertain with sufficient certainty that they were capable of following the proceedings. In this unusual case, the IOCDC prioritized the core principle of granting a fair hearing to the athletes concerned more highly than formal compliance with the time limit for the proceedings, which in any case is non-binding.
- The special circumstance surrounding case 14 was that the athlete initially requested analysis of the B sample, but then withdrew this request after the hearing. At this point, the meeting of the Executive Board, which had been scheduled to accommodate the B sample analysis, could no longer be brought forward, which resulted in the time period for the proceedings being delayed slightly. The same is true for case four. In this case, the analysis of sample B was scheduled for August 16, 2004 at the request of the athlete, but then cancelled again by the athlete.
- In case 17, the athlete was informed of the anti-doping rule violation on August 28, 2004. The decision issued on August 29, 2004 was still within the required time limit. The problem, however, is that the decision does not bring the proceedings to a final close. Instead, Section IV of the decision states the following: "The disciplinary procedure will continue with regard to an alleged anti-doping rule violation, pursuant to Article 2.5 of the Rules (Tampering, or attempting to tamper, with any part of the Doping Control)." However, Article 7.2.14 of the ADRIOC stipulates that "the entire disciplinary proceeding should not exceed 24 hours ...". The IO Team's opinion is that the special circumstances surrounding this case justify a more extensive investigation beyond the 24-hour

time limit. Nonetheless, the reasons for which the IOC President can grant an extension of the time limit should be laid down in more detail in the future.

In summary, the IO Team determined that the process was designed to be fast and was managed efficiently. In no case did the length of proceedings have an effect on competitions. In particular, no competitions or medal ceremonies had to be moved or rescheduled. Only in one case did the potential risk arise that an athlete who had tested positive after a preliminary heat might participate in another intermediate heat before the proceedings were finished. This possible risk did not materialize in this specific case, because the athlete's delegation withdrew the athlete from competition. Even without the help of the delegation, a conflict would not have occurred, as Article 7.2.7 of the ADRIOC stipulates that the Chairman of the IOCDC may suspend the athlete (or other person concerned) until the IOCEB has pronounced its decision.

## **2.2 Inclusion of the TUEC in the results management process**

The ADRIOC stipulates that all adverse analytical findings must be sent to the Chairman of the IOCMC for internal review in the form of a detailed laboratory report containing the results of the finding and documentation of the analysis (Article 7.2.1). A copy of the laboratory report must also always be forwarded to the Chair of the IO Team. The IO Team did not receive a single laboratory report indicating adverse analytical findings relating to corticosteroids or beta-2 agonists. This is surprising on the one hand, and raises the suspicion on the other that no laboratory reports were prepared at all in these cases, despite the adverse findings, but instead that the persons responsible for the internal review were (informally) asked immediately after the screening of the samples whether a TUE had been granted. If a TUE had been issued, it appears that the proceedings were halted and no confirmation of the finding was performed. For this reason, the IO Team was practicably unable to crosscheck the laboratory results with the TUE applications or TUEs granted by the TUEC. This minimally transparent procedure should be reconsidered for the future.

## **2.3 Procedure optimization**

The results management procedure has been extensively optimized since the Olympic Games in Sydney. At that time, the Sydney Report recommended the following (p. 29): "We recommend that the management of the doping cases inside the Medical Commission be entrusted to a smaller sub-committee of members with appropriate specialist knowledge, to be chaired by the Chair of the IOCMC." Based on this recommendation, the IOC amended the rules and regulations and shifted responsibility for hearings to a special committee; the composition of the committee stays the same in the vast majority of cases. Compared with the prior legal situation, this has led not only to an improved atmosphere at the hearings that better serves the goal of determining the truth, but also to acceleration and professionalization of the proceedings. The fully drafted decision proposed by the IOCDC, which is available at the IOCEB meeting as a rule, comprehensively lays the groundwork for a decision by the IOCEB and is a key element of the IOCEB's decision-making process, although, of course, the proposal is not binding on the IOCEB. The IOCEB's role in the end is to exercise a kind of plausibility check on the IOCDC's proposal. Returning the decision-making process to a broader consensus can fulfill an important function. This is particularly true for an issue as important as the fight against doping, which has far-reaching consequences, including on the public image of an organization like the IOC. However, the IO Team is of the opinion that this only applies to complex proceedings, or those considered controversial by the sports world. By contrast, in "normal" cases, the IO Team believes that the disadvantages associated with an additional procedural step outweigh the advantages provided by a plausibility check by the IOCEB. For example, the IOCEB meeting is always scheduled under pressure from the time limit on the proceedings stipulated by the ADRIOC. Gaining a thorough insight into a majority of the cases is hardly possible for

most members of the IOCEB. In addition, the high number of meetings scheduled with short notice occupies much of the human resources capacity of the highest-level decision-making body of the IOC. Finally, the IO Team also observed that on several occasions, the necessary quorum for decisions to be handed down by the IOCEB (see Article 26 1.2 of the Olympic Charter) was barely reached. Moreover, optimizing the process would make the workload, which has risen since Sydney, easier to handle.

	Sydney 2000	Salt Lake City 2002	Athens 2004
<b>Number of hearings conducted</b>	5	6	17

#### **RECOMMENDATION**

*The IO Team recommends that results management be streamlined. As a result, the decision proposed by the IOCDC and submitted to the IOC President should generally be binding and final. In complex cases, or those considered controversial by the sports world, the IOC President should, however, have the opportunity to present the proposed decision by the IOCDC to the IOCEB for a decision. In such a case, the IOCEB would make the ultimate, final decision on the case without the IOCDC's proposed decision being binding, much like the system in place to date. This type of streamlining of the process would also be covered by the Olympic Charter, which explicitly states that the "IOCEB may delegate its powers to a disciplinary commission." The IO Team believes that this would also cover transferring responsibilities to the IOCDC beyond the conduct of hearings.*

## **2.4 The principle of fairness**

The background to the principle of holding fair proceedings is multi-faceted. Article eight of the WADC states, among other things, that the hearing body must be fair and impartial, and that the individual in question has the right to be represented by counsel, informed fairly and in good time about the anti-doping rule violation of which he or she has been accused, and provided the opportunity to present his or her stance on the anti-doping rule violation, as well as to present evidence. Finally, the WADC also includes the person's right to an interpreter and to a well-substantiated decision in the matter as part of the principle of fairness.

- **Fair and impartial hearing body:**

Several provisions of the rules and regulations stipulate that the committees and bodies participating in the decision-making process must be sufficiently impartial. For instance, Article 7.3.2 of the ADRIOC stipulates the following regarding the IOCDC: "No person may be a member of the IOCDC if he has the same nationality as the athlete, or other person, concerned; has any declared or apparent conflict of interest with such athlete, the NOC or IF of such athlete or any person whatsoever involved in the case; or in any way whatsoever, does not feel himself to be free and independent." A corresponding provision for the IOCEB is lacking in the ADRIOC. To this extent, reference must be made to the general rule stated in Article 26 1.6 lit. e of the Olympic Charter. According to this provision, an IOC member may refrain from taking part in a vote when the vote concerns any other matter relating to the country of which he is a national or the NOC of that country. In this regard, it would be worth considering whether the conflict-of-interest rules for both committees should be harmonized. Finally, it is difficult to understand why more stringent requirements should apply to the IOCDC, which does not have the authority to make final decisions, than to the body that has the power to make final decisions in these cases. It should be pointed out, however, that in practice the

different standards did not lead to a particular problem since Article 26 1.6 lit. e was interpreted in a fairly broad sense.

The grounds for exclusion based on nationality in accordance with Article 7.3.2 of the ADRIOC were applied once (Case 11). In an additional case (No. eight), the catch-all provision of Article 7.3.2 of the ADRIOC was applied; this provision stipulates that a conflict of interest exists when a member of the IOCDC does not feel himself to be free and independent. This case involved a situation in which a competitor, who was of the same nationality as a member of the IOCDC, would have benefited from the revocation of a medal. Alt. 2 of Article 7.3.2 of the ADRIOC was also applied. This provision stipulates that grounds for exclusion exist if the member of the IOCDC has any declared or apparent conflict of interest with the IF of the athlete or any other person whatsoever involved in the case. In the aforementioned case (No. 11), a member of the IOCDC was simultaneously President of the IF to which the person involved belonged. In three additional cases, a member of the IOCDC held a high-level position in the IF to which the person involved belonged. In these cases, the possibility of an apparent conflict of interest could also have been considered. In the opinion of the IO Team, these cases are of concern, however, no apparent conflict of interest existed. The membership of an athlete in an IF does not provide sufficient grounds to assume a close relationship between the athlete and any officer in the federation that would result in influence being exercised on the decision-making process according to objective criteria. The situation could be different for the IF, which would take up the case as part of its responsibilities after the Olympic Games. An issue that can definitely arise here is whether and to what extent this functionary can and may participate in decision-making within the IF after already being involved in the case as part of the IOCDC. Not unproblematic is the participation of a federation officer in the IOCDC in view of Article 7.2.10 of the ADRIOC. This provision gives the IF the right if it has chosen to take part in the discussions of the hearing, to intervene as a third party and adduce evidence. If the IF chooses to act as a party in the proceedings, then the high-level official position held within the federation disqualifies this person from being a member of the IOCDC for the relevant case, because the person in question would then be acting as both a "judge" and as an official of a party. In all of the above-mentioned cases, because the IF limited its legal status to the position of observer, did not participate in the discussions, and also did not assert rights as a party in the proceedings, the IO Team did not consider there to be a conflict of interest at any time. In the specific case described, the requirements for a fair and impartial hearing body were therefore fulfilled at all times.

- **Right to be heard:**

The proceedings can only be fair if the athlete's right to be heard is respected in full. This includes the athletes' rights to be informed in a timely manner of the anti-doping rule violation of which they have been accused, to make statements concerning the allegations, to present evidence in their defense and to be assisted by counsel during the proceedings. If the person involved does not understand the language of the proceedings sufficiently or at all, help must be provided so that the athlete can actively assert his or her rights. Not only can the legal basis for all of these conditions be found in the ADRIOC, but these principles are also complied with in full by the IOCDC. There were minor complaints by some that full knowledge of the allegation was not in fact known until shortly before the hearing. No challenge to this omission was made at any level. Ultimately, such an accusation is not justified. In all cases, the notice to appear for a hearing contained the allegations against the respective athlete. To the extent that the case involved an adverse analytical finding, a copy of the



laboratory results for the A sample was attached. The notice also included a list of the members of the IOCDC and the legal basis for the proceedings. The person involved was always informed of the opportunity to request analysis of the B sample in the notice to appear. Moreover, in the case of an adverse analytical finding, the person involved was also informed that he or she could ask for copies of the A and B sample laboratory packages.

Management of the proceedings by the Chair of the IOCDC was professional and transparent, and an effort was always made to actively involve the athlete. This created an atmosphere for the proceedings that was largely free of controversy, was relaxed, and enabled the facts of the case and the basis for the decision to be determined efficiently. The latter is underscored by the fact that the proceedings were not challenged by the participants at any time and no procedural errors were asserted. Indeed it was not unusual for the parties involved to thank the IOCDC for the manner in which the proceedings were held.

- **Reasoned decisions:**

The decisions are well-substantiated, clearly structured, understandably written and reflect in full the findings, claims and positions accumulated during the hearing. The persons involved were informed of the decisions without delay. Moreover, they were also notified of their options for legal redress and provided specific information about the opportunity to submit an appeal to the CAS within 21 days after receipt of the decision.

- **Confidentiality:**

According to Article 7.3.1 of the ADRIOC, any person who has access to the file or who takes part in any stage of the procedure is bound by the duty of third-party confidentiality. Moreover, Article 13.1 of the ADRIOC stipulates that the IOC shall make every effort to maintain confidentiality of the results of all doping controls and the identities of the persons involved in the proceedings until an anti-doping rule violation has been established in a hearing in accordance with Article 7 of the ADRIOC.

In the opinion of the IO Team, Article 13.1 of the ADRIOC spells out the fact that confidentiality must be guaranteed not only up to and including the IOCDC's hearing, but that the athlete has the right to confidentiality until the IOCEB has issued a final decision in the case. As long as only a proposed decision by the IOCDC exists, i.e., an anti-doping rule violation has not yet been conclusively established, there is no discernible reason to lift the requirement for confidentiality of the proceedings. An exception that can be considered is a case where the IOCDC has handed down a provisional suspension within the meaning of Article 7.2.7 of the ADRIOC. To the extent that this has an external effect, as is usually the case, the fact of the matter is that the confidentiality of the proceedings cannot be upheld.

The IO Team noticed that even before decisions had been reached, the press was already well-informed about not only the scheduling of the IOCDC hearing and the IOCEB meeting, but usually also about the allegations against the athlete. Regarding this matter, the IO Team would like to simply note that in its estimation, the reason for this breach of confidentiality is not to be found in the test results management process. The more likely explanation is that this information usually leaks to the press and the public through the people surrounding the athlete or through his or her delegation.

## RECOMMENDATIONS

- *The IO Team recommends harmonizing the rules of conflict of interest for the IOCDC and the IOCEB when dealing with anti-doping rule violations.*
- *The conflict of interest rule in Article 7.3.2 of the ADRIOC according to which grounds for exclusion exist if the member of the IOCDC has any declared or apparent conflict of interest with the IF of the athlete should be given more thought in the future.*
- *In the opinion of the IO Team, confidentiality should be guaranteed according to Article 13.1 of the ADRIOC not only up to and including the IOCDC's hearing, but until the IOCEB has issued a final decision in the case.*

## 2.5 Handling of the cases

Regarding the issue of whether and to what degree the IOCEB decided the cases submitted to it in compliance with the rules, attention must be drawn to the fact that the IO Team imposed certain limits on itself in this regard—after all, the IO Team is not an arbitration or appeals body. In particular, providing its own legal analysis over that of the IOCEB cannot be within the scope of the IO Team's responsibilities. This is solely within the jurisdiction of the CAS. Moreover, it is also not the IO Team's duty to take a position on the chances of success of an appeal against a decision handed down by the IOCEB. The IO Team therefore limits itself to verifying whether and the extent to which the IOCEB acted arbitrarily or in a manner obviously contrary to the rules.

### • Types of anti-doping rule violations

The different types of anti-doping rule violations are defined in Article 2 of the ADRIOC. This provision uses the exact wording of Article 2 of the WADC. The following circumstances/behaviors constitute anti-doping rule violations in accordance with this provision:

- (1) The presence of a prohibited substance or its metabolites or markers in an athlete's bodily specimen
- (2) Use or attempted use of a prohibited substance or a prohibited method
- (3) Refusal, or failure without compelling justification, to submit to sample collection after notification, or otherwise evading sample collection
- (4) Violation of the requirements regarding athlete availability for testing
- (5) Tampering, or attempting to tamper, with any part of the doping control
- (6) Possession of prohibited substances and methods
- (7) Trafficking in any prohibited substance or prohibited method
- (8) Administration or attempted administration of a prohibited substance or prohibited method

The following anti-doping rule violations were ascertained by the IOCEB during the Games:

	Presence of prohibited substance or method	(Attempted) Use of prohibited substance or method	Refusal or failure to submit to sample collection	Violation of requirements regarding athlete availability for testing	(Attempted) Tampering with any part of the doping control	Possession of prohibited substances and methods	Trafficking in any prohibited substance or method	(Attempted) Administration of a prohibited substance or method
No. of cases	12	-	5*	-	1**	-	-	-

\* Includes two cases of alleged refusal to submit to sample collection

\*\* Alleged tampering or attempted tampering. The proceedings have not yet been concluded.

- Comments:

(1) *Jurisdiction:*

Each disciplinary hearing and, therefore, the determination that a person has committed an anti-doping rule violation, assumes that the body called upon for making a decision in the matter has jurisdiction over the person involved. The IOC's jurisdiction over the person involved is based on the "Entry Form" signed by this person (see by-law to Rule 49 of the Olympic Charter), which includes the following passage: "I also agree to comply with the Olympic Charter currently in force and, in particular, with the provisions of the Olympic Charter regarding the World Anti-Doping Code...and arbitration before the Court of Arbitration for Sport."

Of course, this jurisdiction, once established, can also be revoked. For example, Article 7.1 of the ADRIOC limits IOC management of anti-doping rule violations to anti-doping rule violations arising "upon the occasion of the Olympic Games." This type of case only arises if the timing is such that the anti-doping rule violation was committed during the period of the Olympic Games (July 30 – August 29, 2004) and the anti-doping rule violation has a material connection to the Games, e.g. because it was discovered as part of a doping control ordered by the IOC, or it was committed at an Olympic venue and/or by an athlete eligible for the Olympic Games. However, jurisdiction cannot be terminated solely because this time period ended. For instance, the Olympic Charter stipulates that accreditation to participate in the Olympic Games can also be withdrawn. This would also end the disciplinary jurisdiction of the IOC. It is possible that accreditation could be withdrawn by a third party, but also that the person involved might voluntarily give up accreditation. To the extent that such a retraction of accreditation by the athletes themselves is valid, this would also end the disciplinary jurisdiction of the IOC. The IOCEB was confronted with precisely this issue in two cases.

The IOC President initiated disciplinary proceedings against two athletes due to an alleged anti-doping rule violation. The IOCEB began its investigation and held three hearings. In the third hearing, both of the athletes appeared for the first time before the IOCEB, declared their final withdrawal from the Games and surrendered their Olympic identity and accreditation cards to the IOCEB. The IOCEB subsequently halted the proceedings against the two athletes with regard to the Athens Games.

The result is unsatisfactory, even though it is in conformity with the existing rules. This approach opens up the possibility that the person involved can avoid pending sanctions for an anti-doping rule violation

by voluntarily withdrawing or returning his or her identity and accreditation cards. Ultimately, the disciplinary power is in the hands of the person involved.

The IO Team, therefore, recommends that the consequences of voluntary return of accreditation and identity cards be reconsidered and, if necessary, that the rules and regulations be amended accordingly. A possible solution, for example, is that time limits be placed on the validity of a withdrawal or voluntary withdrawal. That is not unusual at all in the case of continuing obligations. The voluntary or involuntary withdrawal would then not be effective immediately and would also not immediately result in suspension of the disciplinary jurisdiction of the IOC. In such cases, the IOCEB would retain control over the process, not the athlete. Such a rule would have not only material advantages, because the athlete would have no opportunity to manipulate the process, but also procedural advantages. Findings and results from the proceedings would then not be lost, as would be the case if the proceedings were simply halted. Moreover, the proximity to the site of the offense and the individual in question, both in terms of distance and time, would be preserved, enabling the facts of the case to be determined optimally. It is true, however, that the IFs would have a more difficult time investigating the facts of the case at a later time. Another option would be to consider the voluntary withdrawal from the Games without the approval of the IOCEB to be a breach of duty based on the by-law to Rule 49 N0. 7 of the Olympic Charter, which automatically (and therefore without an anti-doping rule violation having to be determined in a hearing) leads to disqualification from all competitions in the Games, along with the associated consequences.

(2) *Definition of team sports – non-team sports:*

All anti-doping rule violations detected during the Athens Games concerned non-team sports. Attention must be paid to the fact that the difference in the definitions of team sports and non-team sports is not always easy to determine. For example, the IOCEB had to decide how to classify women's quadruple sculls. In this specific case, a female athlete in a quadruple scull that had won a bronze medal tested positive. The difference in the definitions of team sports and non-team sports are generally based on Appendix 1 (Definitions) of the ADRIOC. According to this, the term "team sport" designates a sport in which substitution of players is permitted during a competition. The term "competition" is in turn defined as a single race, match, game or single athletic contest. The ADRIOC lists the finals of the 100-meter dash as an example of a "competition." It is possible under certain limited circumstances to substitute the members of the crew in quadruple sculls from one competition to another, but this is impossible by definition during a single competition, unlike, for example, in the case of a basketball team. The IOCEB therefore correctly classified the women's quadruple sculls as a non-team sport.

(3) *Extending the procedure to other persons:*

It is striking that no proceedings were brought against persons belonging to athlete entourages. The ADRIOC provides for this possibility in Article 7.2.13. This provision states that if, at any time, circumstances suggest such a course of action, the IOCDC may propose extending the procedure to any other person(s), particularly among the

athlete's entourage, subject to the IOC jurisdiction who, in one way or another, may have contributed to the apparent anti-doping rule violation. In such an event, it shall submit a specific report to the IOC President, who will take a decision in this regard. The IOC finds it difficult to apply this provision.

*Example (1):* In one case which alleged intake of a prohibited substance by a female athlete, the IOCDC arrived at the following conclusion: "At this stage, the circumstances of the case suggest that the team doctor...may have contributed to the anti-doping rule violation." However, no proceedings were brought against the team doctor, although it was the IOCDC's opinion that this person may have committed an anti-doping rule violation, the reason being that the doctor returned home and her accreditation was deactivated, ending the IOC jurisdiction. Instead, the relevant IF and the relevant NOC were encouraged to consider possible action against the team doctor. Furthermore, the IOC expressly left open the possibility of "open(ing) a new procedure before the IOC with respect to any participation of... (the team doctor) in the 2006 or 2008 Olympic Games."

The apparent backdrop to this decision is the hope that final resolution of the case by the relevant NOC or the relevant IF could provide the foundation on which the IOC could subsequently base its own decision. This approach is certainly legally permissible, but questionable in practice. In what way does the IF or the NOC have better options to investigate the case than the IOC? Transferring the proceedings to a third party generally only makes sense when the third party has better opportunities to investigate the case. This is not immediately ascertainable in this case. At the very least, the relevant anti-doping organization would be expected to first exhaust all of the options available to it to clarify the facts of the case before reaching the decision to transfer the proceedings. The ADRIOC also basically makes this assumption— Article 7.2.13 states that a specific report must be prepared if "a person subject to the IOC jurisdiction...may have contributed to the apparent anti-doping rule violation." The threshold for intervention is therefore relatively low. The IO Team believes that in this specific case, all of the tools available to investigate the facts of the case (interviewing or questioning the team doctor) were not utilized. Even when the IOC halts its own investigation, transferring the proceedings to the IF is only useful and helpful if the IF does not have to undertake the investigation from the very beginning, but instead can build on the findings of the IOC and therefore can obtain access to the relevant files. The issue of whether this is possible appears to be questionable. Article 7.3.1 of the ADRIOC explicitly states: "Any person who has access to the file or who takes part in any stage of the procedure is bound by the duty of third-party confidentiality." A corresponding amendment of the regulation should at least be considered in future.

*Example (2):* In another case, which involved an alleged refusal by two athletes to provide a sample, the IOCEB states in its decision that it would "request the IOC Disciplinary Commission to submit to the IOC Executive Board a report on the wider circumstances, in particular all acts or omissions by any other officials or persons accredited at the Olympic Games, in relation to the information management and chain of command concerning the communication of the Doping Control Notification to ... (the athletes)." The IOCDC then drafted a corresponding report dated August 21, 2004 and submitted it to the IOCEB for a decision. The IOCEB subsequently accepted the decision proposed by the IOCDC, which concluded that no further action was necessary in this specific case.

In terms of procedural rules, it must be noted that according to the ADRIOC, the IOCEB does not have the authority to decide the question of whether disciplinary proceedings are to be extended to other persons (particularly among the athlete's entourage). Instead, Article 7.2.13 of the ADRIOC stipulates that the IOC President has the sole authority to decide this issue. However, this would not constitute a procedural error if the IOC President submits the decision or turns over decision-making authority to the IOCEB. In fact, the report prepared by the IOCDC describes the entire range of difficulties that anti-doping organizations must overcome if they wish to investigate allegations against persons associated with athletes. The example indicates once again that anti-doping organizations are powerless in cases where doping controls are not available to them to uncover anti-doping rule violations. There are no opportunities available to compel individuals to make truthful statements or to secure evidence. Ultimately, the anti-doping organizations must rely on information procured by state criminal justice institutions in the vast majority of proceedings against athletes' entourages. This is underscored quite clearly by the aforementioned case, which has in the meanwhile become the subject of an investigation by the state prosecutor's office, which in turn was able to uncover a large amount of evidence relevant to the issues of the case (possession of prohibited substances by the trainer). For this reason, no objection can be raised if the IOC in this case decided to refrain from initiating disciplinary proceedings against the member of the athlete's entourage at this point after exhausting the available sources of information. However, the possible opportunities for cooperation in information procurement between the IOC and the state authorities should be considered in the future.

*(4) Number of anti-doping rule violations:*

There are many reasons for the high number of anti-doping rule violations discovered relative to other Olympic Games. There is certainly a correlation between the number of controls and the number of anti-doping rule violations ascertained. The type of prohibited substances used also indicates that some athletes were not aware about the wide-ranging and sophisticated analysis methods used by the laboratory. This indicates how important it is not to publicize any specific information on this topic in the run-up to the Games. Finally, the statistics also indicate that in some countries, as well as in some federations, no sufficient or across-the-board doping control programs exist.

- **Types of sanctions:**

The ADRIOC provides for the following sanction options for individuals in connection with anti-doping rule violations (Article 8, 9):

- (1) Disqualification in relation to a single competition, i.e. forfeiture of the individual results obtained in the competition in respect of which the doping control was carried out
- (2) Forfeiture of the right to participate in a competition or in additional competitions
- (3) Disqualification in relation to the Olympic Games, i.e. forfeiture of all the athlete's individual results obtained in all competitions
- (4) Exclusion from the Olympic Games
- (5) Loss of accreditation

## (6) Ineligibility for future Games

The following sanctions were handed down by the IOCEB in the individual cases:

	Disqualification in relation to a single competition	Forfeiture of the right to participate in a competition or additional competition	Disqualification in relation to the Olympic Games	Exclusion from the Olympic Games	Withdrawal of identity card and accreditation	Ineligibility for future Games
<b>Number of cases</b>	14	-	-	12	12	3* 1**

\* IOC reserved the right to open a new procedure with respect to any participation in further Olympic Games  
 \*\* Proceedings initiated, but not yet completed.

### - Comments:

In principle, the list of sanctions permits little leeway. This applies in particular to the issue of disqualification in relation to a single competition. If the athlete commits an anti-doping rule violation here, he or she must be automatically disqualified (Article 8.1 of the ADRIOC). To this extent, the ADRIOC follows the principle of "strict liability" espoused by the WADC. Therefore, if an adverse analytical finding is determined, neither the question of the guilt of the athlete nor the issue of the purpose for which the substance was ingested are material. The disqualification results in the athlete losing his or her medal, ranking, points and awards; this is also based on Article 8.1 of the ADRIOC. The IOCEB therefore correctly demanded immediate surrender of medals and certificates in cases where these were awarded to athletes. Because the disqualification leads to loss of the athlete's ranking and therefore to incorrectness of the entire winner's list, the determination of which is the responsibility of the IFs at the Olympic Games (Article 30 No. 1.5 of the Olympic Charter), the relevant IF is always requested to modify the results of the event accordingly after a disqualification. Moreover, the disqualification of an athlete can also affect other athletes in non-team sports. For example, the last sentence of Article 10.1 the ADRIOC reads as follows: "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 relevant federation." The consequences that an anti-doping rule violation by a rower, for instance, would have on the other members of the rower's crew must be determined from the FISA rules and regulations. By-Law 11 of the FISA Anti-Doping Rules stipulates that if a member of the crew is found to have committed an anti-doping rule violation during the competition, the whole crew shall be disqualified from competition, and the athlete concerned and any crew which included him shall be disqualified from all competitions at the event. In the aforementioned case in women's quadruple sculls, the IOCEB therefore correctly disqualified not only the athlete involved, but also the entire crew (with all of the associated consequences).

As a general rule, anti-doping rule violations relating to a specific competition only lead to disqualification in relation to that competition and to exclusion from the Olympic Games and withdrawal of the athlete's accreditation. There are minor semantic differences regarding these "standard" cases in the individual decisions. The identity card and accreditation of the person involved are sometimes "immediately" withdrawn, and sometimes just "withdrawn." A material difference is not implied here. For the sake of consistency, however, uniform language should be used in the future. There are also exceptions to the "standard" cases, i.e.

simultaneous withdrawal of identity card and accreditation, exclusion from the Olympic Games and disqualification. In two cases, the IOCEB allowed the athletes to retain their identity cards and accreditation, and did not exclude them from the Olympic Games—despite the fact that an anti-doping rule violation was determined. Because the athletes in the above-mentioned cases did not have any further competitions to take part in, this “milder” punishment only resulted in the athletes not being immediately expelled from the Olympic Village; instead, they were able to stay there until the Games ended. This was the IOCEB’s way of indicating the special circumstances of the case, namely to emphasize the minimal guilt of the athletes and to protect them from the scandal of having to leave the Olympic Village immediately in dishonor. Finally, the issue in this case was less about imposing a less severe athletic sanction and more about how an—indisputable—anti-doping rule violation would be communicated to the outside world and with regard to the athletes. To this extent, the IO Team is of the opinion that the IOCEB made appropriate use of the leeway it was afforded with the necessary sensitivity.

In addition to disqualification from the Olympic Games in Athens, Article 8.2 of the ADRIOC stipulates that the IOCEB can also impose the additional sanction of declaring athletes ineligible for Olympic Games subsequent to the Athens Games. The IOCEB is considering imposing such a particularly harsh punishment in one case in which the athlete refused on the one hand to provide a sample, and in which there was suspicion of tampering or attempted tampering on the other. The decision expressly states: “The Disciplinary Commission further unanimously concluded that the circumstances surrounding the evidence...relating to differences in samples...require further confirmation. Such circumstances, if confirmed, could be construed as tampering and lead to other subsequent sanctions, including permanent ineligibility for the Olympic Games ...” The IO Team’s opinion is that the severity of the violation justifies declaring the athlete ineligible beyond just the Athens Games. However, the IO Team recommends standardizing the requirements for such an additional penalty in the ADRIOC so as not to give the appearance of arbitrariness. Possible criteria to consider could include allegations of an intentional anti-doping rule violation or multiple anti-doping rule violations.

- **Recognition of results management by the IF**

The responsibility for results management for doping tests ordered by another anti-doping organization, particularly the conduct of the hearing and the imposition of sanctions, generally rests solely with this organization (Article 15.3 of the WADC). Art. 15.4 of the WADC stipulates the following: “Subject to the right to appeal provided in the Article 13, the testing, therapeutic use exemptions and hearing results or other final adjudications of any Signatory which are consistent with the Code and are within that Signatory’s authority, shall be recognized and respected by all other Signatories.” This regulation is relevant to the Olympic Games in particular if an IF sanctions an athlete during the period of the Games based on a doping control this IF ordered that resulted in an adverse analytical finding. The question that arises then is whether this sanction would also apply to the Olympic Games. Article 14.2 of the ADRIOC contains a word-for-word rendering of the provision in Article 15.4 of the WADC. If, therefore, an IF has determined in the course of a hearing that it conducted that an athlete has committed an anti-doping rule violation, the IOC is bound by this finding if and to the extent that the proceedings fulfilled the requirements of the WADC. The IOC must then decide the eligibility or ineligibility of the athlete for the Olympic Games in accordance with Article 8.2. of the ADRIOC.



An open question is which proceedings would decide the issue of acknowledgement, in particular who would hand down the decision and whether the decision must be based on a hearing involving the athlete. Neither of these issues is governed explicitly by the ADRIOC. The IO Team therefore recommends that the rules concerning this issue be made explicit in the future. Otherwise, at least at first glance, it appears that the general rule in Art. 25 No. 4 of the Olympic Charter would have to be applied. This stipulates that "any individual has the right to be heard by the IOC body competent to apply a measure or sanction to such individual. The right to be heard in the sense of this provision includes...the right to appear personally or to submit a defense in writing."

Recognition or acceptance of a third party decision made by other organizations in accordance with Article 14.2 of the ADRIOC requires that this decision be a "final adjudication" of a signatory to the WADC. The measure in question must therefore be final. Whether this is the case or not cannot always be determined easily. For example, during the Athens Olympic Games, the President of the IWF, Dr. Tamas Ajan, notified the Director of Legal Affairs of the IOC Mr. Howard Stupp in a letter dated August 21, 2004 that adverse analytical findings were determined for seven athletes as the result of controls ordered by the IWF. The letter further states that "each of those athletes has been suspended pursuant to the IWF Anti-Doping Policy." Furthermore, the President of IWF refers to the fact that "none of the athletes below has requested a hearing as at this time." The IWF rules stipulate in Article 11.3 of the Anti-Doping Policy that an athlete is provisionally suspended immediately after receiving an adverse analytical finding for the A sample. This suspension remains in force until all applicable procedures have been completed, unless the athlete accepts the adverse analytical findings and the appropriate sanction. One element of the applicable procedure is the hearing before the IWF Doping Hearing Panel. This can be requested by the athlete (Article 12.1). According to Article 12.1.5 of the Anti-Doping Policy, such requests must, however, be made in writing and delivered to the IWF Secretariat within 30 days of the IWF's written notification of the adverse analytical findings. If the athlete requests a hearing, it will be held on the occasion of the organization of the junior and senior world championships following the athlete's request for hearing. Exceptionally, the hearings may be organized at earlier dates. The effect of the provisional suspension is that the athlete is barred temporarily from participating in any competition prior to the final decision at a hearing conducted under Article 12.1. The IOCEB revoked the athlete's accreditation and informed the athlete of this by a letter from the Director General dated August 23, 2004 in accordance with Article 8.2 of the ADRIOC. A hearing was not held. The question arises of which procedure this was based on. Article 14.2 of the ADRIOC can be the basis for this measure only if the "provisional suspension" handed down by the IWF and the associated revocation of permission to participate in the competition is deemed "final adjudication" within the meaning of the ADRIOC. This type of broad interpretation is not prohibited, but it is not clear-cut either.

## RECOMMENDATIONS

- *The IO Team recommends that the consequences of voluntary return of accreditation and identity cards be reconsidered and, if necessary, that the rules and regulations be amended accordingly.*
- *The possibilities of the IOC to detect anti-doping rule violations in the entourage of an athlete are limited. The IO Team recommends, however, that if there are suspicious circumstances the IOC takes every possible step to investigate the matter irrespective of the possible outcome of such investigation. In any case other anti-doping organizations should be asked to follow-up a matter only if the IOC itself has exhausted all means of information gathering and if these other organizations are in a better position than the IOC to pursue the case.*
- *The IO Team is of the opinion that certain anti-doping rule violations justify longer periods of ineligibility in relation to the Games. However, the IO Team recommends standardizing the requirements for such a severe penalty in the ADRIOC so as not to give the appearance of arbitrariness.*
- *The IO Team recommends that the content and scope of Article 14.2 of the ADRIOC be clarified for the future.*

## 2.6 Appeals to CAS

The role of CAS is to ensure that the appropriate regulations (see above) have been observed and that the principles of due process and natural justice have been followed pursuant to the rules established for CAS. In the period from August 13, 2004 to August 29, 2004, only one appeal to the CAS was heard. The subject of the proceedings was a decision by the American Arbitration Association (AAA), which had imposed a two-year ban on a US athlete who tested positive for nikethamide (a stimulant). The athlete requested that CAS render a decision that would allow her to retain the competition results the athlete achieved in the United States Olympic Trials results and to have the two-year ineligibility sanction eliminated, or reduced to time already served under the provisional suspension, rendering her eligible to compete at the Athens Olympic Games. The CAS Panel confirmed the two-year sanction. The hearing took place at the CAS offices in Athens on August 16, 2004. Representatives of the IO Team did not participate in this hearing because the Team did not have the required consent of both parties. However, the CAS office provided the IO Team with a copy of the decision.

Although only one doping-related case was handled by the CAS until 29 August 2004, the role of the CAS in the entire doping control process should not be underestimated. The risk that a decision by the IOCEB could be appealed to the CAS was palpable at every hearing by the IOCDC and every meeting of the IOCEB and, in the estimation of the members of the IO Team, materially influenced the discussion and the content of the decisions. On the whole, it can be said therefore that the existence of the CAS alone, as well as its independent legal adjudication practice in the past have already had an across-the-board disciplinary effect on the event organizer.

As of 26 October 2004 the CAS has advised that after the end of the Games seven (doping related) appeals in connection to decisions which have been issued on the occasion of the Games have been registered. The cases concern:

- the Greek athlete Sampanis (case 7 Appendix 14): The Appellant requests the annulment of the decision made by the IOCEB to exclude

him from the Games and to withdraw the bronze medal he had won in the men's -62 Kg weightlifting event.

- The Hungarian athlete Fazekas (case 13 Appendix 14): The Appellant requests the annulment of the decision made by the IOCEB to exclude him from the Games and to withdraw the gold medal he won in the men's discus throw.
- The Hungarian athlete Gyurkovics (Case 14 Appendix 14): The Appellant requests the annulment of the decision of the IOCEB to exclude and disqualify him from the Games and to withdraw his silver medal in the men's - 105kg weightlifting event.
- The Hungarian athlete Kovacs (Case 15 Appendix 14): The Appellant requests the annulment of the decision of the IOCEB to exclude and disqualify him from the Games.
- The Columbian Athlete Williams (Case 16 Appendix 14): The Appellant requests that annulment of the decision made by the IOCEB to exclude and disqualify her from the Games and to withdraw her bronze medal in cycling track –women's points race event.
- The Hungarian athlete Annus (Case 17 Appendix 14): The Appellant request the annulment of the decision made by the IOCEB to exclude him from the Games and to withdraw the gold medal won in the men's hammer throw.
- The Russian Olympic Committee and Russian cycling athlete Ekimov: The Appellants request the annulment of the decision made by the IOC stating that the US Cyclist Tyler Hamilton would not be sanctioned further to a non-conclusive result of a blood anti-doping test (see section 3 below). The Appellants request that Tyler Hamilton be disqualified from the time trial event at the 2004 Olympic Games and that the gold medal be awarded to the Russian cyclist Viatcheslav Ekimov.

No hearings have been held in these pending proceedings at the time of the closure of this report. Therefore, the IO Team had no opportunity to comment on these cases.

### **3. The Hamilton Case**

#### **3.1 Background**

On the 19 August 2004 a blood sample was collected from the cyclist Tyler Hamilton and analyzed at the DCL between 19 August 2004 and 22 August 2004. The laboratory analysis report dated 22 August 2004 and signed by the Laboratory Director registered the sample to be negative. However, an annotation was added stating that the sample was suspicious for blood transfusion. This laboratory analysis result was reported on the August 22, according to the established protocol, to the Medical Director of the IOC. (In addition, the IO Team laboratory observer noted the case.) The Medical Director contacted the Director of the DCL on the same day in response to the annotation. The reported outcome of this discussion was that the DCL Director confirmed that he was not in a position to report the sample as being positive. On the basis of this discussion the IOC Medical Director chose to take no further action. It is also apparent that at this point the Laboratory froze the athlete's sample. Following an exchange of information between the Medical Director and the WADA Science Director, and in the light of correspondence between scientists from the laboratory involved in the analysis, the Medical Director informed the President of the IOC on 9 September 2004 of the circumstances of the case. The President of the IOC in turn informed the Chairman of the IOCMC and asked that immediate action be taken to clarify the situation. The review of the case with external experts resulted in a decision on 16 September 2004 to designate the sample as positive. Based on this decision a disciplinary committee was appointed on 16 September

2004. On the same day the athlete was informed that "the result of the analysis of the 'A' sample has given rise to an adverse analytical finding, showing two different red blood cells populations." The athlete was also advised that, if so requested, the 'B' sample would be analyzed on 21 September 2004 in the Lausanne laboratory as the expertise present during the Games in Athens was no longer available. The athlete requested such analysis. The laboratory report relating to the "B" sample analysis stated that "the result is considered as non conclusive, because of lack of enough intact red blood cells". Based on this result the IOC President informed the athlete of the result and that the IOC "will not be pursuing sanctions regarding this matter".

### **3.2 Observations**

**Note of limitation of mandate:** *The mandate of the IO program is "to observe and to report". This case tested the team's interpretation of the extent to which it could go in examining a particular set of circumstances. More specifically, pursuing the matter beyond observation and comment on existing documentation and known facts would have taken on an investigative function which was outside the mandate of the IO Program and would, in the opinion of the IO Team, have been inappropriate. IO Teams, as currently constructed, have neither the authority nor capacity to involve themselves in more rigorous investigations. Nevertheless the IO Team does have the duty to report on and draw conclusions from the established facts and circumstances as they are presented to them.*

#### **1. Comments**

This case has created considerable confusion about both the specific facts and whether or not it had broader implications for the evaluation of the whole anti-doping program. The IO Team would make it clear from the outset that it has seen no evidence from this or any other case which suggests that the IOC departed from the guiding principle set out in the Doping Control Guide, namely "zero tolerance as far as doping is concerned". Nevertheless, it is apparent that a series of errors and/or misunderstandings have occurred such that an A-sample that was originally declared negative but later positive was ultimately unable to have been acted upon. These errors and misunderstandings occurred within the context of the implementation of analytical techniques and laboratory processes which were being used in practice for the first time.

It is clear to the IO Team that considerable strides had been made in the lead up period to the Games to ensure that valid tests for significant doping substances and methods could be applied. This is, of course, to be applauded and there are ample examples of how this has led to the prosecution of a range of cases against athletes, which would not have been contemplated at any previous Games. Nevertheless there is always a risk, when new methodologies are fast tracked, that problems relating to the very newness of a process will occur. This certainly appears to be the case here. A series of compounding misunderstandings or errors meant that a situation that might have been able to be retrieved at a number of points was ultimately lost and, depending on one's perspective, either an athlete that engaged in doping practices was able to escape or an innocent athlete was unfairly implicated in doping. Irrespective of the conclusion what cannot be questioned, in the opinion of the Team, is the honest endeavour and honorable intent of all the key players involved. Each of those individuals demonstrated consistently throughout the Games an earnest desire to ensure that the most effective and fair anti-doping program possible was being applied in an effort to meet the interests of all drug free athletes. No conclusion of the IO Team is clearer or should be more forcefully stated than that.

As a result of its review of the documentation placed before it (and the essential chronology has been set out above) the IO Team is prompted to raise a series of

questions. Where an answer to the questions is apparent to the Team it is suggested; however, each one would require further investigation before it can be stated definitively.

- How is it that the laboratory was unable to confirm a positive result for a test for foreign blood transfusion when the clear expectation from both the IOC and WADA was that it was in position to do so? Note: The IO Team has seen correspondence showing that the decision to not declare the test positive in the first instance was on the basis of a lack of confidence in the laboratory's general ability to meet the criteria for "flexible accreditation" (see International Standard for Laboratories s 4.2.2 and 6.4.3) necessary to make a valid report rather than the lack of a clear analytical result.
- If the laboratory did not regard the test result as having validity should any reference at all have been made on the official result form? Rather, should an alternative and clearer method of reporting been applied?
- Why was the Chair of the IOC Medical Commission not informed from the outset and, thus, not involved in responding to what could at the very least be regarded as a "confusing" report and particularly given that it involved a gold medalist and given that it concerned the very first case of an alleged blood transfusion? Indeed nothing provided to the IO Team indicates that he was involved at any critical point despite the Doping Control Guide establishing that result review was primarily his responsibility (see Article 9.2 Doping Control Guide).
- Were the laboratory experts appointed by the IOCMC informed of this particular case? If not why and if so was there thorough and appropriate review and discussion with the IOC Medical Director?
- On what basis was the decision to freeze the B-sample taken? An addendum to the International Standard for Laboratories, valid from July 1 2004, states the following:  
  
*"Samples that consist of whole blood or blood fractions containing intact cells shall be stored at approximately 4 degree Celsius on reception and should be analyzed within 48 hours. As soon as practicable after aliquots have been taken for analysis, Samples should be returned to approximately 4 degree Celsius storage. The Antidoping Laboratory shall retain the A and B Samples with or without Adverse Analytical Finding for a minimum of 1 month after the Testing Authority receives the final analytical ("A" or "B" Sample) report."*
- While WADA receives only adverse analytical findings at this point in time, it is apparent to the IO Team, however, that follow-up action was initiated following communication between the IOC and WADA some 15 days after the negative result was sent out.
- What convinced the laboratory that the (apparent) barrier to declaring the sample positive no longer existed? Information made available to the IO Team shows that there was a re-examination of the technical data that re-affirmed the view of the original expert group that the sample was in fact positive. There is no indication, from what the IO Team has seen, that the matter of accreditation criteria was subsequently discussed.

## 2. Conclusion / Recommendations

This report has raised a number of questions with respect to the Hamilton case and made some preliminary observations in response to them. As stated earlier these are based on a review of formal documents placed before it as well as some summarized material prepared by the IOC Medical Director and this is the limit of the role that the IO Team can play. There are clearly some questions that would require deeper investigation before more robust and helpful conclusions can be drawn. The exact circumstances of this case are unlikely to be replicated in the future but it is not inconceivable that comparable situations may arise. It is clearly desirable that any predictable flaw in the system is eliminated and, to the extent that a deeper investigation into this case would assist that, the IOC is invited to consider organizing such an investigation into the circumstances that pertained as well as to its own processes. Of course, the potential for such situations to occur outside an Olympic Games remains and there are elements here that suggest that WADA may wish to review both the Standards which were in application and its role in reviewing and following up on the test results that it receives.

Having said that further investigation may well be desirable, the IO Team offers some more specific comments regarding its own review of the facts.

### **RECOMMENDATION**

- *The status of a laboratory with respect to its accreditation to provide a valid report for any particular substance must be clear prior to the initiation of analysis of any sample. In the view of the IO Team that status should be unequivocal and documented.*
- *The volume of testing and consequent results that occur at an Olympic Games suggests that receipt and review of those results by one person may be more than can be reasonably expected of an already busy IOC Medical Director. This case suggests clearly that additional checks and balances and formalized functions would be helpful such as a small internal result management review body. This would ensure that all reported laboratory information of a problematic nature are dealt with in a proper and timely manner both internally and externally (Note that the IO Team has commented earlier that a similar "bottleneck" exists with respect to the TUE process, given the demands of the current rules).*
- *Laboratory "Reports of Analysis" should only refer to outcomes of tests that can be validated by the laboratory concerned. There should be no place for ambivalence in this respect on such reports. That is not to say that Laboratories should not be alert to situations where suspicious information exists. These should be reported but in an appropriate fashion and not via the formal "report of analysis". It would be nonsensical if an anti-doping program were not able to receive information and, where appropriate, act upon such information. Indeed there were situations during the Games where suspicious information was received and acted upon in an appropriate way to uncover cases of doping.*

## VI. LIST OF ABBREVIATIONS

<b>ADRIOC</b>	Anti-Doping Rules of the International Olympic Committee applicable to the Games of the XXVIII Olympiad in Athens in 2004
<b>ATHOC</b>	Athens Organising Committee for the Olympic Games
<b>ATUE</b>	Abbreviated Therapeutic Use Exemption
<b>CAR</b>	Corrective action report
<b>CAS</b>	Court of Arbitration for Sport
<b>DCL</b>	Doping Control Laboratory
<b>DCO</b>	Doping Control Officer
<b>EPO</b>	Erythropoietin
<b>IF</b>	International Federation
<b>IO</b>	Independent Observer
<b>IOC</b>	International Olympic Committee
<b>IOC MC</b>	International Olympic Committee Medical Commission
<b>IOCDC</b>	International Olympic Committee Disciplinary Commission
<b>IOCEB</b>	International Olympic Committee Executive Board
<b>IOC LS Group</b>	International Olympic Committee Laboratory Support Group
<b>IOC TUEC</b>	International Olympic Committee Therapeutic Use Exemption Committee
<b>ISL</b>	International Standard for Laboratories
<b>ISO</b>	International Standard Organisation
<b>MO</b>	Medical Officer
<b>NADO</b>	National Anti-Doping Organisation
<b>NOC</b>	National Olympic Committee
<b>QC</b>	Quality Control
<b>TUE</b>	Therapeutic Use Exemption
<b>TUEC</b>	Therapeutic Use Exemption Committee
<b>WADA</b>	World Anti-Doping Agency
<b>WADC</b>	World Anti-Doping Code

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## APPENDIX 1

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### ATHENS 2004 OLYMPIC GAMES Independent Observers

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**ULRICH HAAS (Germany) – Chair of the team**

*Professor of law*

Prof. Ulrich Haas is professor of law at the University of Mainz, Germany. His fields of research are corporate insolvency law and sports law. Prof. Haas chaired the German Anti-Doping Commission from 1999-2002. Today he is an arbitrator with the Court of Arbitration for Sport, leads the advisory group on legal issues of the monitoring group of the Council of Europe Anti-Doping Convention, and works as a consultant for the German Anti-Doping Agency.



**GRAEME STEEL (New Zealand) - Vice Chair of the team**

*Executive Director, New Zealand Sports Drug Agency*

Graeme Steel is the executive director of the New Zealand Sports Drug Agency. Prior to being appointed to this position in 1993, he chaired the International Anti-Doping Arrangement (IADA). He was seconded as an International Olympic Committee Medical Commission deputy officer for doping control at the Sydney 2000 Olympic Games.



**ICHIRO KONO (Japan)**

*Chair, Japan Anti-Doping Agency*

Prof. Ichiro Kono chairs the Japan Anti-Doping Agency. He is a professor of Sports Medicine at the University of Tsukuba and a Member of the Anti-Doping Advisory Committee of the International Rugby Board. He was also a member of the WADA Independent Observer team at the Salt Lake City 2002 Olympic Games.



**MARIANNE KRIEL (South Africa) - Athletes representative**

*Two time-Olympian*

Marianne Kriel is a two time-Olympian. She won a Bronze medal in the 100 m Backstroke for women at the 1996 Olympic Games in Atlanta. She is currently the chairperson for the Athlete's Commission of South Africa, and serves in the Anti-Doping Committee. She is a television presenter for swimming South Africa and does motivational speaking.



**PIRJO KROUVILA (Finland)**

*Director, International and Developmental Affairs, Finnish Anti-Doping Agency*

As a Director for International and Developmental Affairs with the Finnish Anti-Doping Agency (FINADA), Pirjo Krouvila's tasks include international outreach, such as liaising with WADA, the Council of Europe, the Association of National Antidoping Organizations (ANADO) and IADA; assisting in Nordic cooperation; spearheading education and research strategies; and working on developmental projects. She is the coordinator of ISO/ISDC quality control with FINADA and deputy secretary general. She is a member of the WADA Ethics and Education Committee and she acts as a vice-chairman for ANADO. Pirjo Krouvila has taken part in two WADA Independent Observers missions.



**ADRIAN LORDE (Barbados)***Chairman, National Anti-Doping Commission of Barbados*

Dr. Adrian Lorde is a family physician and a medical coordinator for the Barbados Defence Force. He is a director and medical liaison officer for the Barbados Olympic Association and an independent doping officer. He also chairs the National Anti-Doping Commission of Barbados and has been a member of medical and doping commissions at the Central American and Caribbean (CAC), Pan-American and Commonwealth Games since 1993. He was a member of WADA Foundation Board and a team leader for WADA's Outreach program.

**UNA MAY (Ireland)***Programme Manager, Anti-Doping Unit, Irish Sports Council*

Dr. Una May commenced working with the Irish Sports Council in 1998 and has managed the Irish Sports Council Anti-Doping Program since 2001. She has a PhD in exercise physiology (1996) and a BSc (Hon.) in sports science (1991) from John Moores University Liverpool. She has represented Ireland in both orienteering and mountain running.

**ANIK SAX (Luxembourg)***Sports physician, Board member, Luxembourg National Anti-Doping Agency*

Dr. Anik Sax is a sports physician and the head physician of the National Institute of Sports Medicine in Luxembourg. She is a board member of the Luxembourg National Anti-Doping Agency and a member of the medical commission of her country's National Olympic Committee. Dr. Sax serves on WADA's Therapeutic Use Exemptions working committee.

**RAINER W. STEPHANY (Netherlands)***Director of the European Union Reference Laboratory for residues*

Prof. Rainer Stephany is the director of the European Union Reference Laboratory (CRL) for residues and retired (2003) head of the laboratory for food and residue analysis (ARO) of RIVM. He is a part-time professor at the Utrecht University, Faculty of Veterinary Medicine, in Utrecht, the Netherlands. He studied at Utrecht University from 1960 to 1967 (chemistry, physics and biology). Prof. Stephany is an international expert consultant to, amongst others, FAO/WHO JECFA, Codex, the IOC and the European Commission.

**CASEY WADE (Canada) – WADA Staff***Director Education and Planning, WADA*

A former Canadian national team sprinter, Casey Wade attended the University of Wisconsin and University of Ottawa, where he obtained a Masters of Sport Administration. As the former director of Drug-free Sport with the Canadian Center for Ethics in Sport, he was instrumental in establishing Canada's anti-doping program following the Ben Johnson positive finding in 1988. His work included the development of international standards for athlete testing, now recognized by the International Standards Organization (ISO). Now the director of education and planning with the World Anti-Doping Agency, Mr. Wade is involved in the development of international strategies and programs, particularly on education, designed to lead and coordinate international efforts to promote doping free sport.

**SHANNAN WITHERS (Australia) – WADA Staff***Senior Manager, Executive Office, WADA*

Prior to becoming a WADA employee in Lausanne in January 2001, Ms Withers worked for the Doping Control program of the Sydney Organising Committee for the Olympic Games (SOCOG) where she coordinated the planning and execution of several doping control programs at the various sports venues. Although her current work with WADA is not specific to testing, her role is a diverse one and touches on many various aspects relating to the issue. Ms Withers' responsibilities include managing ad-hoc

projects for the Director General and the Executive of WADA, including the World Conference on Doping in Sport (Copenhagen, March 2003).

## APPENDIX 2

# WADA The Independent Observer Program

### ATHENS 2004 SUMMER OLYMPIC GAMES

## Declaration of Confidentiality

As a member of the WADA Office of the Independent Observer, I \_\_\_\_\_, declare that, by executing this Declaration, I hereby agree to abide by the Office of the Independent Observer's commitment to Confidentiality and am bound by the terms of this Declaration.

It is understood that the nature of my involvement as an Independent Observer is such that I will have knowledge of or become aware of sensitive and confidential information from time to time, specifically, but not limited to the following:

- Selection of athletes for unannounced doping control.
- Problematic and/or positive test results information on an athlete or group of athletes.
- TUEs
- Lab results/reports
- Follow up testing.
- Investigation activities.
- Appeals or arbitrations related to doping infractions.

I do swear or solemnly affirm that as a representative of the Office of the Independent Observer, I will observe and comply with all the requirements of the Office of the Independent Observer pertaining to the confidentiality of doping control information during and after the term of my involvement.

Except as required by law or as authorized in the course of my duties, I will not disclose or give to any person whatsoever any confidential information or document that comes to my knowledge or possession either directly or indirectly through my involvement as an Independent Observer.

Furthermore, I understand that breach of my obligation of confidentiality may result in possible legal action against me and in the immediate termination of my involvement with the Office of the Independent Observer.

I agree that any publication relating to my experiences as an Independent Observer which contains information not already published in the relevant IO mission report will be submitted to the Director General of WADA for permission to discuss/publish beforehand.

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **year** \_\_\_\_\_

**Sworn or affirmed by** \_\_\_\_\_  
(signature)

**Witness** \_\_\_\_\_  
(signature)

## APPENDIX 3

### WADA

## The Independent Observer Program

### Code of Professional Conduct

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This code of professional conduct is more than simply a set of behaviours for people working within the Office of the Independent Observer: it reflects the ideals and values of the Office, and its parent organisation the World Anti-Doping Agency (WADA), as well as a commitment to uphold these values.

The work of the Office of the Independent Observer is first and foremost in the interest of athletes and the public at large. As an operation upholding sport's values and ethics, the Office of the Independent Observer should lead by example: it is committed to the highest order of professionalism and public scrutiny. Independent Observers therefore conduct themselves with integrity, are fair and honest in our dealings with others, and treat others with respect and dignity. The Code of Professional Conduct is as follows:

- Independent Observers are responsible for their actions and accountable for the consequences of their actions or inactions. Independent Observers serve the Office of the Independent Observer in a discreet and professional manner.
- At all times, Independent Observers will act in a manner that encourages and maintains confidence in the integrity of the Office of the Independent Observer among athletes, sport officials, sports organizations and the public at large.
- The role of an Independent Observer is to observe and report observations and findings to the proper authority (individual IOs to the Chair of the team in question; the Chair of the team to WADA following the event). The Independent Observer is not a decision-maker.
- Independent Observers will conduct their relations with, and discharge their duties to, other organizations, clients, the public and media ethically, fairly, discretely and professionally both within the spirit and the letter of agreements, policies and legal requirements. Independent Observers will treat all persons with respect, tact and courtesy in all matters connected with the Office of the Independent Observer.
- All communications with individuals or other external entities, whether oral or written, must be conducted professionally, and should be delivered in a timely, accurate and clear manner.
- Independent Observers must not be in a conflict of interest or permit any influence that could conflict with the best interest of the mandate and obligations of the Office of the Independent Observer. Each Independent Observer must execute a Conflict of Interest Agreement.
- Confidentiality of all information, whether written or verbal must be respected. Each Independent Observer must sign a Declaration of Confidentiality. Any publication resulting from activities as an Independent Observer which includes data or observations or names which are not already in the public domain as a result of an

Independent Observers report will be submitted to the WADA Director General for prior agreement to publish.

- The Independent Observers will work together as a team in a collegial manner and work to instil a spirit of team loyalty.
- The duties and obligations which Independent Observers assume continue to apply after the event at which they have participated: this applies in particular to the obligations of discretion and confidentiality.
- The Office of the Independent Observer must use its resources (including human and material resources, funds, equipment and information) responsibly and in the best interests of their duties.

## APPENDIX 4

### WADA

# The Independent Observer Program Terms of Reference

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#### **Purpose**

The Independent Observer (IO) is an aspect of the doping control program authorised under the World Anti Doping Code (Articles 20.2.5; 20.3.7; 20.6.3; 20.7.7; and Definitions page 74.). Its primary function is to observe independently all aspects of the doping control operations before, during and after the assigned Games or Sporting Event. The objectives are to promote the integrity of the doping control process and to enhance athlete, sport and public confidence in the doping control processes.

The key functions of the Independent Observer are to observe all aspects of the doping control process as appropriate and to prepare an independent, public report on them.

#### **Responsibilities**

The Independent Observer has the following responsibilities:

1. With regard to the doping control process, the Independent Observer shall observe:
  - a) Procedures relating to the selection, notification and escorting of a competitor for doping control, including pre-event blood screening and subsequent results management;
  - b) Procedures where a competitor uses a substance for therapeutic use,;
  - c) Sample collection procedures at the Doping Control Station;
  - d) Procedures where a competitor fails to comply or reports to the Doping Control Station later than required;
  - e) Post sample collection procedures at the doping control station;
  - f) Transportation and Chain of Custody; and
  - g) Process and procedures at the Laboratory, including analysis of A Samples (blood and urine).
2. With respect to any subsequent Test Result Management processes, the Independent Observer shall:
  - a) Receive copies of all athlete doping control forms (including those of control samples);
  - b) Receive copies of all TUE documentation and management;

- b) Receive notification of all laboratory test results;
  - c) Receive notifications of all failures to comply;
  - d) Receive notifications of all new substances, unusual results and other irregularities;
  - e) Observe the analysis of B samples;
  - f) Observe the deliberations of the responsible doping control review committee when determining whether a potential doping offence has occurred and to provide relevant information upon request;
  - g) Receive a copy of the notification given to the competitor of all hearing(s);
  - h) Attend all hearings and receive copies of relevant documents including recommendations and decisions of sanctions imposed;
  - i) Observe any dispute hearing before CAS or any other judicial party if so permitted.
3. Have the right to obtain any additional or subsequent information relating to the doping control processes from the event in question.

*It should be noted that all responsibilities may be carried out during Major Games, while selected responsibilities will be carried out for other Sporting Events.*

### **Membership**

WADA will recruit appoint and train members as deemed appropriate to fulfill the Independent Observer mandate, in accordance with the WADA Independent Observer Membership/Participation Criteria. All members will be volunteers. No member shall have been involved in any way in a doping offense. The Office of the Independent Observer will be composed of individuals possessing competence and expertise in: doping control process in general, and/or specific areas such as sample collection; result management; medical; doping control; law; laboratory analysis; and Olympic and international sport. Former athletes having participated in major sports events may also be assigned to the team.

As noted in the WADA IO Membership/Participation Criteria, the size of the actual team will be determined by WADA in accordance with the size of the Event, what aspects will be observed, the duration of the assignment, and the extent to which partnership support funding is provided.

### **Chair**

The Chair (and Vice Chair) of Independent Observer teams at specific events shall be appointed by the WADA Director General. The Chair shall not have a conflict of interest.

The Chair will have overall responsibility for the operations of the Independent Observers at the event and will be its public spokesperson. The Chair may delegate the Vice Chair(s) and others to carry out duties as necessary.



## **Reporting**

At the conclusion of the event, the Chair of the Independent Observer team shall be responsible for producing an Independent Observer's Report. The report will be reviewed by the IO team, with appropriate input provided.

The Independent Observer's Report will include the following information:

1. A summary of the purpose, role and scope of observations of the IO missions;
2. Evaluation of compliance with the doping control regulations governing the respective event;
3. Non-conformities (if any) and steps taken to remedy non-conformities;
4. Recommendations as appropriate for the improvement of the doping control process and
5. Other relevant matters.

The Independent Observer Report will be submitted to the Director General of WADA for review and comments no later than one month<sup>†</sup> after the completion of all doping control testing relating to the assigned event. The relevant Major Games Organizer/International Federation and/or Event Organizing Committee will also be provided the opportunity to review and comment on the report prior to its publication.

The Independent Observer's Final Report will be made public by WADA.

## **Conflict of Interest**

All members of the Office of the Independent Observer are subject to the Independent Observer Code of Professional Conduct, included in which shall be a Conflict of Interest Agreement.

Any member of the Independent Observer Team who has a conflict of interest in any function or matter being dealt with, or is perceived to have a conflict of interest in any manner, shall declare this conflict immediately to the Chair who will decide whether or not the team member will or will not continue to observe the activity in question.

## **Confidentiality**

Also included in the Independent Observer's Code of Professional Conduct is a Declaration of Confidentiality, a copy of which all members are required to sign.

Except as provided in the Declaration of Confidentiality, all information relating to the work of the Independent Observers shall remain strictly confidential during the event and until the publication of the final report.

Unless authorized by the Chair, no member of the Independent Observer team shall speak publicly about the work and observations of the team during and following the event. Only those matters contained in the final report shall be discussed.

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<sup>†</sup> This time limit may be extended when attending Olympic and/or Paralympic Games to a maximum of two months.

## **Funding**

WADA shall be responsible for funding the Independent Observers' transportation, accommodation and meal expenses when on duty. A daily allowance will be provided to each member according to WADA policy. Please note that the daily allowance will at times cover the costs for meal expenses. Where appropriate, WADA will enter into joint funding agreements with relevant Major Games Organizations, International Federations, or other responsible organizations to either completely cover the expenses or share in the costs.

# APPENDIX 5

## WADA Independent Observer Program ATHENS 2004 IO Missions – Summary of IO Observations

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Day	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Date	14/08	15/08	16/08	17/08	18/08	19/08	20/08	21/08	22/08	23/08	24/08	25/08	26/08	27/08	28/08	29/08
Archery					1			1								
Athletics							1		1	1	1	1	1	1	1	
Badminton						1	1									
Baseball				1							1	1				
Basketball		1				1				1		1	1	1	1	
Beach Volleyball	1		1		1				1							
Boxing	1			1					1					1	1	
Canoe / Kayak Slalom					1		1									
Canoe / Kayak Sprint														1	1	
Cycling Mountain Bike															1	
Cycling Road	1	1			1											
Cycling Track							1	1	1		1	1				
Diving			1													
Equestrian					1							1				
Fencing				1				1								
Football		1	1	1				1			1					
Gymnastics Artistic					1				1	1						
Gymnastics Rhythmic																1
Handball	1			1						1						1
Hockey						1							1	1		
Judo	1		1	1												
Modern Pentathlon														1		
Rowing		1				1		1	1							
Sailing	1							1								
Shooting									1							
Softball	1				1					1						
Swimming		1	1	1	1	1	1									
Synchronised Swimming														1		
Table Tennis							1									
Taekwondo													1			
Tennis		1				1	1	1								
Trampoline							1									
Triathlon												1	1			
Volleyball	1		1		1	1				1	1	1			1	1
Water Polo		1											1			1
Weightlifting	1	1	1			1		1		1	1					
Wrestling									1	1			1		1	
<b>Total = 121</b>	<b>9</b>	<b>8</b>	<b>7</b>	<b>7</b>	<b>9</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>9</b>	<b>7</b>	<b>7</b>	<b>7</b>	<b>7</b>	<b>4</b>

## APPENDIX 6

### **Time taken to complete sample collection process from provision of adequate sample (based on 58 samples timed)**

<i>Average time taken</i>	<i>12 mins 20 secs</i>
<i>Median time taken</i>	<i>10 mins 30 secs</i>
<i>Average time added when substances are declared</i>	<i>3 mins 3 secs</i>
<i>Maximum time to complete process</i>	<i>32 mins 35secs</i>
<i>Minimum time to complete process</i>	<i>7 mins</i>
<i>Maximum time to declare substances ingested.</i>	<i>18 mins</i>
<i>Total time taken declaring substances</i>	<i>2 hours 17 mins</i>
<i>Total time spent on medical declarations extrapolated to all tests</i>	<i>175 hours</i>

## APPENDIX 7

### Analyzed parameters for blood at recent Olympic Games

Parameters	Sydney	Salt Lake	Athens (#)
Hemoglobin	a) Blood draws at polyclinic and 3 competition venues b) Analysis at laboratory	a) Blood draws and analysis at 3 competition venues b) Blood draws at 3 venues and analysis at laboratory	Blood draws at polyclinic and analysis at laboratory
Reticulocyte	a) Blood draws at polyclinic and 3 competition venues b) Analysis at laboratory	a) Blood draws and analysis at 3 competition venues, b) Blood draws at 3 venues and analysis at laboratory	Blood draws at polyclinic and analysis at laboratory
rhEPO	Blood and urinary methods at laboratory	Blood draws at 3 venues and analysis at laboratory	
Blood transfusion			Blood draws at polyclinic and analysis at laboratory
HBOC (Hemoglobin-based oxygen carriers)			Blood draws & centrifugation at polyclinic and analysis at laboratory
h Growth Hormone			Blood draws & centrifugation at polyclinic and analysis at laboratory

# A small number of blood samples were taken at the football venue (only those outside Athens) and at the rowing venue

## APPENDIX 8

### Observations at the Polyclinic

<i>Informative visit prior to the commencement of the game</i>		<i>1</i>	<i>One observation of notification and collection of athlete sample</i>
Day 1	Aug. 14	5	
Day 2	Aug. 15	3	
Day 3	Aug. 16	3	
Day 4	Aug. 17	3	
Day 5	Aug. 18	0	
Day 6	Aug. 19	4	
Day 7	Aug. 20	1	
Day 8	Aug. 21	0	
Day 9	Aug. 22	4	
Day 10	Aug. 23	0	
Day 11	Aug. 24	4	
Day 12	Aug. 25	3	
Day 13	Aug. 26	0	
Day 14	Aug. 27	5	
Day 15	Aug. 28	0	
Day 16	Aug. 29	0	
Others			
<b>Total</b>		<b>36</b>	

## APPENDIX 9

### Names and duties of visiting scientists from 10 foreign WADA Accredited Laboratories.

Substance <i>or</i> Technique	Name	WADA Laboratory
HRMS	GROSSE Joachim	Kreischa, DE
HRMS	THIEME Detlef	Kreischa, DE
HRMS	XU Youxuan	Beijing, CN
LC-MS	MAZZARINO Monica	Rome, IT
LC-MS	THEVIS Mario	Cologne, DE
LC-MS	VAN EENOO Peter	Ghent, BE
LC-MS	QING Yang	Beijing, CN
Steroids	ZHANG Yinong	Beijing, CN
Urine EPO	BARTLETT Christiaan	London, UK
Urine EPO	MARTIN Laurent	Chatenay Malabry, FR
Urine EPO	BORGEN Mette	Oslo, NO
Urine EPO	REICHEL Christian	Seibersdorf, AT
Urine EPO	BELALCAZAR Viviane	Barcelona, ES
Stimulants	MOLAIONI Francesco	Rome, IT
Stimulants	CUI Kairong	Beijing, CN
Stimulants	LU Jianghai	Beijing, CN
Immunoassays	SHEN Li	Beijing, CN

## APPENDIX 10

### List of capital equipment in the DCL available during the Games

Type	Model/Manufacturer	Quantity
GC (NPD)	Agilent HP-6890 / HP-5890	4
GC-MS (quadrupole)	HEWLETT-PACKARD HP-5890 / 5970 / 5971	3
GC-MS (quadrupole)	Agilent HP-6890 / 5973	22 *
GC-HRMS (sector)	Micromass Autospec	4
GC-MS (TOF)	Micromass / GCT	( 1 ) **
GC-IRMS	GV / Isoprime	2
LC-MS (Ion Trap)	Agilent LC-MSD XL	6 ***
HPLC (UV-DAD)	HEWLETT-PACKARD HP1090	1
Fluorimeter	Perkin Elmer Victor 3	1
Flow Cytometer	Beckman Coulter XL-MCL	1
Hematology analyzer	BECKMAN COULTER Act diff	1
Hematology analyzer	SYSMEX / R500	1
Hematology analyzer	SYSMEX / XE2100	1
Mini SDS-PAGE	Amersham Pharmacia Biotech Hoefer mini VE / 80-6418-77	1
Image scanner	Amersham Pharmacia Biotech 18-1134-45	1
Iso-electro focusing	Amersham Pharmacia Biotech / Multiphor II	1
ELISA SYSTEM	BIOKIT, SA / BEST 2000	1
RIA gamma-Counter	PACKARD / CRYSTAL 5412	1
Biochemical Analyzer	DPC / Immulite	1
Biochemical Analyzer	ABX / Mira Plus	1
Water Purifier	Millipore Academic / Simplicity	2

\* Three more instruments than listed in the Pre-Games report

\*\* Instrument not in use during the Games

\*\*\* One more instrument than listed in the Pre-Games report



## APPENDIX 11

### Anti-doping Controls in Athens

Date	Pre competition test		Post competition test	
	<i>urine</i>	<i>blood</i>	<i>urine</i>	<i>blood</i>
1.08.2004	1	1		
2.08.2004	5	5		
3.08.2004	6	6		
4.08.2004	9	9		
5.08.2004	16	16		
6.08.2004	25	25		
7.08.2004	22	22		
8.08.2004	20	20		
9.08.2004	30	30		
10.08.2004	33	33		
11.08.2004	42	42	32	
12.08.2004	34	34	16	
13.08.2004	6	6		
14.08.2004	23	23	149	17
15.08.2004	11	11	142	8
16.08.2004	14	14	113	3
17.08.2004	11	11	153	1
18.08.2004	22	22	176	14
19.08.2004	13	13	123	2
20.08.2004	16	16	186	20
21.08.2004	8	8	205	43
22.08.2004	10	10	212	48
23.08.2004			131	17
24.08.2004	5	5	124	19
25.08.2004			139	36
26.08.2004			124	22
27.08.2004			171	46
28.08.2004			148	21
29.08.2004			70	10
<i>Sub total</i>	382	382	2414	327
<b>Total</b>	<b>3505</b>			

## APPENDIX 12

### Visits to the DCL

<i>DCL visitor</i>	<i>Number of visits</i>	<i>Hours Total</i>	<i>Hours per visit</i>		
			<i>Min</i>	<i>Average</i>	<i>Max</i>
<i>WADA IO 1</i>	<i>29</i>	<i>97:51:00</i>	<i>###</i>	<i>03:22</i>	<i>10:00</i>
<i>WADA IO 2</i>	<i>1</i>	<i>02:10</i>		<i>02:10</i>	
<i>WADA IO 3</i>	<i>1</i>	<i>00:05</i>		<i>00:05</i>	
<i>IOC LS 1</i>	<i>21</i>	<i>31:08:00</i>	<i>###</i>	<i>01:29</i>	<i>06:27</i>
<i>IOC LS 2</i>	<i>17</i>	<i>37:44:00</i>	<i>###</i>	<i>02:13</i>	<i>05:40</i>
<i>IOC LS 3</i>	<i>13</i>	<i>18:12</i>	<i>###</i>	<i>01:24</i>	<i>02:45</i>
<i>IOC LS 4</i>	<i>9</i>	<i>13:24</i>	<i>###</i>	<i>01:29</i>	<i>02:55</i>
<i>Total WADA IO team</i>	<i>31</i>	<i>100:06:00</i>	<i>###</i>	<i>03:14</i>	<i>10:00</i>
<i>Total IOC LS group</i>	<i>60</i>	<i>100:28:00</i>	<i>###</i>	<i>01:40</i>	<i>06:27</i>

## APPENDIX 13

### Overview over process observed in the DCL

Date	Visit (hours)/IO member	Activity observed
20040811	01:58	Introductory lab tour and overview
	01:58	Introductory lab tour and overview
	01:58	Introductory lab tour and overview
20040814	02:40	Testing for hGH , urine sample batch preparation, various extractions screening, freezer, refrigerators, storage
	00:55	Review screening batch packages, review A-5678 (oxandrolone) confirmation, Pre Games Report for WADA
20040815	03:05	Log-in samples, pH, s.g., corrective action, testing for blood transfusion, security, WADA visitor Andersen
	02:35	Testing for EPO, staff safety, exhaust hoods, sample receipt, visitors log, screening programs & forms
20040816	03:00	B-5735 (MTest. Metab.) cancelled, review A-5903 (methandienone met.) & A-5876 (clenbuterol) confirmation, various A-suspects
	05:20	Review A-5882 ( testosterone) suspect IRMS & review A-6015 (THG) suspect, IOC visitor Massazza, fax reporting
20040817	04:43	B-5678 (oxandrolone) analysis, LIMS
	02:33	Review A-6167 (furosemide), review B-5678
20040818	00:42	HRMS, IRMS
	01:27	Review A-6303 (testosterone, T/E)
20040819	06:22	B-6167 (furosemide) analysis, hGH expo, B-5876 (clenbuterol) analysis, review A-6098 (stanozolol )
	02:02	Review B-6167 (furosemide)
20040820	05:07	Review B-5876 (clenbuterol) , review A-6303 (testosterone, IRMS), DCL complaint WADA communication
20040821	04:26	B-6303 (testosterone) analysis, beta-agonist screening, A-7007 first IOC control sample ( negative ), info blood transfusion positive
	00:31	Various
20040822	02:20	B-6727 (stanozolol) analysis, lab tour
	04:38	Review B-6303 (testosterone), HRMS confirmation, demo A-6825 blood transfusion positive
	02:10	Opening B-6727, introductory lab tour
20040823	03:25	B-6351 (methandienone) postponed, review A-6727 (stanozolol)
	01:53	Review A-7098 (clenbuterol), review A-7425 (ethamivan)
20040824	10:00	B-6351 (methandienone) analysis, B-7098 (clenbuterol) cancelled, TUE & corticosteroids overload of DCL
	03:44	Evening shift, various, visiting staff, courier sample delivery
20040825	04:16	HRMS corticos, complaint PT, EPO

	00:05	Sample delivery
20040826	06:32	B-7425 (ethamivan) analysis, review screening batch packages & procedures, IOC visitor Schamasch, DCL personnel log
	02:30	Review A-7007 ( first IOC QC sample, negative), DCL complaint no positive IOC control sample
20040827	02:45	B-7357 (stanozolol) analysis, review A-8002 ( heptaminol), review s.g., review various Greek forms, batch & lot handling
	00:20	Various
20040828	06:00	Night shift, facilities check, various extractions screening, A-8408 ? ( nandrolone met. ) & A-zzzz (cocaine met. ) positive IOC control samples
20040829	03:30	Review 2 IOC QC samples ( nandrolone & cocaine metabolites ), overload LCMS, EPO in confirmation, urine non-match ( Annus) case
	00:30	Wrap up & good bye

## APPENDIX 14

### Overview of management of adverse findings

No	Athlete's name	Sport	Date of sample collection	Type of sample/infraction	Sample code	Date of receipt	Lab code	Period of analysis of A sample	Hearing	Decision	Period of analysis of B sample	Substance identified	Nationality
1	Munyasia	Boxing	Aug. 6, 2004	Urine	A-676854	06.08.2004	A-00005328	Aug. 6 – 8, 2004	Aug. 9, 2004	Aug. 10, 2004	09.08.2004?	Cathine	Kenya
2	Kenteris	Track and field	Aug. 12, 2004	Alleged refusal to provide a sample					Aug. 13, 16, 18, 2004	Aug. 18, 2004	-	-	Greece
3	Thanou	Track and field	Aug. 12, 2004	Alleged refusal to provide a sample					Aug. 13, 16, 18, 2004	Aug. 18, 2004	-	-	Greece
4	Khine	Weightlifting	Aug. 12, 2004	Urine	A 677257	Aug. 13, 2004	A-00005735	Aug. 13 – 14, 2004	Aug. 15, 2004	Aug. 16, 2004	(cancelled)	Methyltestosterone metabolite	Myanmar
5	Shchukina	Track and field	Aug. 14, 2004	Urine	A 662957	Aug. 15, 2004	A-00005876	Aug. 15 – 16, 2004	Aug. 20, 2004	Aug. 20, 2004	Aug. 19, 2004	Clenbuterol	Uzbekistan
6	Sanamacha Chanu	Weightlifting	Aug. 15, 2004	Urine	A 679982	Aug. 16, 2004	A-00006167	Aug. 16 – 17, 2004	Aug. 19, 2004	Aug. 20, 2004	Aug. 19, 2004	Furosemide	India
7	Sampanis	Weightlifting	Aug. 16, 2004	Urine	A 679995	Aug. 17, 2004	A-00006303	Aug. 17 – 18, 2004	Aug. 21, 2004	Aug. 22, 2004	Aug. 21, 2004	T/E > 6 plus exogenous carbon isotope ratio	Greece
8	Korzhanenko	Track and field	Aug. 18, 2004	Urine	A 680514	Aug. 19, 2004	A-00006727	Aug. 19 – 20, 2004	Aug. 22, 2004	Aug. 23, 2004	Aug. 22, 2004	Stanozolol	Russian Federation
9	Lesnichiy	Track and field	Aug. 20, 2004	Urine	A 678059	Aug. 21, 2004	A-00007098	Aug. 21 – 23, 2004	Aug. 24, 2004	Aug. 24, 2004	(cancelled)	Clenbuterol	Republic of Belarus
10	Galkin	Track and field	Aug. 21, 2004	Urine	A 678310	Aug. 22, 2004	A-00007357	Aug. 22 – 25, 2004	Aug. 26, 2004	Aug. 27, 2004	Aug. 27, 2004	Stanozolol	Russian Federation
11	Olefirenko	FISA rowing	Aug. 22, 2004	Urine	A 679743	Aug. 22, 2004	A-00007425	Aug. 22 – 24, 2004	Aug. 25, 2004	Aug. 26, 2004	Aug. 26, 2004	Ethamivan	Ukraine
12	Fonseca	Wrestling	Aug. 23, 2004	Urine	A 677506	Aug. 24, 2004	A-00007692	Aug. 24 – 26, 2004	Aug. 27, 2004	Aug. 28, 2004	Aug. 28, 2004	Stanozolol	Puerto Rico
13	Fazekas	Track and field	Aug. 23, 2004	Refusal to provide a sample					Aug. 24, 2004	Aug. 24, 2004	-	-	Hungary
14	Gyurkovics	Weightlifting	Aug. 24, 2004	Urine	A 678370	Aug. 25, 2004	A-00007834	Aug. 25 – 26, 2004	Aug. 27, 2004	Aug. 28, 2004	-	Oxandrolone	Hungary
15	Kovacs	Weightlifting	Aug. 24 – 25, 2004	Refusal to provide a sample					Aug. 25, 2004	Aug. 26, 2004	-	-	Hungary

No	Athlete's name	Sport	Date of sample collection	Type of sample / infraction	Sample code	Date of receipt	Lab code	Period of analysis of A sample	Hearing	Decision	Period of analysis of B sample	Substance identified	Nationality
16	Williams	Cycling	Aug. 25, 2004	Urine	A 676765	Aug. 25, 2004	A-00008002	Aug. 25 – 27, 2004	Aug. 29, 2004	Aug. 29, 2004	Aug. 30, 2004	Heptaminol	Columbia
17	Annus	Track and field	Aug. 26 – 27, 2004	Refusal to provide a sample					Aug. 29, 2004	Aug. 29, 2004	-	-	Hungary

## APPENDIX 15

### **Overview of the recommendations of the IO Team for the Games of the XXVIII Olympiad in Athens in 2004**

#### **I. The Team**

- *The IO Team strongly recommends against further reducing the size of the IO Team at future Olympic Games, ensuring instead that all professional specialties involved in the event organizer's doping control program are covered by qualified professionals. With regard to the logistical support, the IO Team is of the opinion that the number of staff made available for this purpose, particularly at the Olympic Games, represents the minimum level required to successfully perform the mission in view of the subject and scope of the mission.*

#### **II. The Scope of the Mission**

- *The IO Team recommends that the IO Team's monitoring assignment for the Olympic Games be extended to the entire Anti-Doping Program in the future. At the very least the IO Team should nonetheless be given an expanded monitoring assignment in the future. The IO Team, therefore, recommends describing this mandate more broadly within the relevant rules and regulations.*

#### **III. The Monitoring Standards**

- *The IO Team recommends that the legal status of the Doping Control Guide should be clarified in unambiguous terms, namely the question of whether it is simply a non-binding source of information or a legally binding set of rules and regulations should be settled.*
- *The IO Team recommends moreover, that care should be taken such that the content of the ADRIO and the Doping Control Guide is not contradictory, and that the texts are worded consistently and the entire doping control process is described (including the accreditation process and the procedure to be followed if the analysis of the B sample does not confirm the results from the A sample).*
- *Furthermore, the IO Team recommends that the complicated regulatory system be reconsidered. Is it really necessary to regulate the anti-doping program in such a convoluted manner, i.e., at three regulatory levels, including various appendices?*
- *The regulations applicable should always contain a note about gender-neutral wording.*

#### **IV. Cooperation with Event Organizer**

- *The IO Team believes that in cases where its members obtain information as part of their mission about an (imminent) anti-doping rule violation, the IO Team must be permitted to forward this information to the body responsible for the event organizer's anti-doping program. In addition, the IO Team believes that consideration should be given to enable the Team to exchange information with the body responsible for the doping control program to allow the latter to react to serious irregularities. The rules describing the mandate of the IO mission should explicitly deal with these questions and, in particular, define the competent authority to which the IO Team will forward the information.*

- *The IO Team recommends that the rules and regulations that form the basis of its monitoring assignment be distributed to the members of the IO Team in a timely manner at least three months before the start of the mission and that a map be made available to the IO Team by the organizing committee, featuring markings indicating the locations of and entrances to the individual doping control stations.*

## **V. Sample collection - General**

- *The IO Team recommends that in future, new strategies be developed for timely and comprehensive provision of information to athletes and athlete support personnel that satisfy the requirements of Art. 18.2 of the WADC. This applies in particular to the blood collection procedure. A series of concrete options is described in the Appendix along with the explanation of the urine sample collection procedure and the blood collection procedure.*
- *The event organizer should set up an office for receiving information about possible doping rules violators from athletes or athlete support personnel. The duty of this office is to check the information (which can also be anonymous) for plausibility and to initiate further steps (e.g. target testing). The IO Team believes that the task force involving ATHOC, the Director of the IOCMC and WADA, which is responsible for test distribution planning, is a suitable contact for receiving such information.*
- *IO Team believes that the concentration of testing per game in team sports is still considerably less than in individual sports and this situation needs to be reviewed.*
- *The IO Team calls for WADA to cooperate with the event organizers and the IF to develop a (non-binding) model of best practice for drawing lots for athletes in team sports that meets the aforementioned criteria of fairness, equal opportunity, confidentiality, security and non-interference optimally in the course of sporting events and which the IF can use for guidance.*

### **V.1 Urine sample collection**

- *IO Team recommends that the doping control stations always be locked or guarded, even if they are out of operation only temporarily or for a short time.*
- *The IO Team recommends that all notifications be in accordance with the International Standard for Testing. In particular, the notification process must be established so that athletes can be reached as early as possible and informed about the doping control. In any case, constant supervision of the athlete by an escort must be ensured from the time when it has been determined or is likely that an athlete will be required to undergo a doping control, but no later than the end of the competition. This is also true during the medal ceremonies or in the mixed zone.*
- *It is recommended that future organising Committees pay greater attention to the training of "escorts" including providing information on how athletes might potentially act in ways which could compromise the process.*
- *The IO Team regards the need for research on samples to be a high priority. Nevertheless it believes that the question asking for the athlete's consent for the use of their sample for research purposes should be thoroughly reconsidered, both in terms of content and the procedure involved.*
- *It is recommended that WADA review the requirement to declare medications on the doping control form be carried out.*
- *It is the view of the IO Team that the Doping Control Official Record should record all important matters that occurred during the process and should make reference to anything that could legitimately be raised in front of a tribunal.*



- *It is recommended that the doping control process can be optimized, where possible, with the result that wait times for athletes would be reduced and therefore the interference in the athlete's schedule could be minimized.*
- *The IO Team considers the case in which the sample does not meet the specific laboratory requirements as to specific gravity to be less than sophisticated. It is recommended that WADA develop a model of best practice with respect to dealing with dilute samples. (This would support the existing Annex F of the International Standard for Testing.).*
- *Additional formalization of the actual sample- taking procedure should only be considered for steps where it would contribute to solving true problems. Possibilities should be examined of simplifying the procedure (e.g., forms, "seals") without giving up or compromising essential standards.*
- *The IO Team recommends that the hierarchy and the duties of the various people present in the doping control stations be regulated clearly and unambiguously, especially the relationship between IF representatives and doping control personnel.*
- *The IO Team recommends that it be informed of the deployment plan for members of the IOCMC, so that the IO Team can factor this information to its own observation assignments.*
- *It is recommended that the IOC reconsider the requirement for medical doctors to conduct the sample collection session in view of the potential availability of alternative very experienced "DCOs".*
- *The IO Team's opinion is that consideration should be given in future to the enforcing regulations against mobile phones in processing rooms.*
- *The doping control process is not an end in itself. In each phase of the doping control process, attention must be paid to treating the athletes not as objects, but as the subject of the process. It is therefore recommended that the behavior of doping control personnel (and also IF representatives) should therefore be commensurate at all times with this status.*
- *It is recommended that there be a review of the chain-of-custody requirements, distinguishing between the essential and the desirable, in light of new techniques.*

## **V.2 Blood sample collection**

- *General improvement of information about blood collection procedures, particularly prior to the commencement of competition. The team physicians' meeting must cover practical topics for team doctors, and details of doping control procedures must be on the agenda. The Medical Director and the manager of the Doping Control Services Program must be present at the meeting in order to respond to concrete questions by the team doctors.*
- *The waiting time for athletes before and during the blood collection must be reduced. In this respect, methods of speeding up the procedure should be implemented, such as:*
  - *using tubes containing coagulation enhancer in order to start centrifugation earlier,*
  - *allowing doping control officers to handle the tubes for centrifugation with the permission of athletes,*
  - *providing more blood processing rooms, in particular providing mobile blood collection stations for venues far away from the polyclinic.*
- *Improving the standard of hygiene in the blood collection room, such as:*
  - *Eating and drinking should in principle not be allowed in the blood collection room. However, if the waiting time exceeds 30 minutes, the athlete is allowed*

- to have drinks or food with him. Bottles and food should not be placed on the processing desk, but kept with the athlete,*
  - *Alcohol swabs must be sealed before use.*
- *Improving security for storage of blood samples, such as:*
  - *Access to storage refrigerator must be restricted to authorized personnel unless locked,*
  - *Refrigerator door must not be transparent, or the refrigerator should be placed in a separate room.*
- *Improving the assurance of athlete privacy and confidentiality, such as:*
  - *Blood samples shall be collected from only one athlete at a time.*
  - *The blood collection room door should be closed during the process*

## **VI. Laboratory**

- *Before each Olympic Games or other major event the IO laboratory expert team should be actively informed by the WADA, in co-operation with the DCL, about DCL underpinning reference documentation. This documentation should be in the WADA prevailed language and cover all DCL pre-games activities.*
- *For the DCL the relation between scope of accreditation and actual testing should be made more transparent and consistent.*
- *The status and activities of the IOC LS group should be laid down in the Regulations.*
- *The IOC LS group should be involved in DCL pre-games activities to review and comment on testing programs and quality assurance.*
- *The arguments why border case potential adverse analytical findings finally are qualified as negative should be documented and archived to prevent the waste of this valuable "soft information".*
- *The actual temperature in the logging room should be controlled and documented because this temperature might affect the specific gravity measurement.*
- *The error propagation effect on the uncertainty of quantitative test results should be established in case the ISL correction factor for specific gravity has to be applied.*
- *Information material should be prepared to adequately inform athletes and accompanying persons of the \*B\* Sample analysis process.*

## **VII. TUE Process**

- *The IO Team recommends that the rules governing the TUE process be more detailed and a more formal structure for administration of the TUE process (filing, notification, back-up, etc.) be established. Moreover, the TUEC should be equipped with an administrative office and staff as soon as possible so that the Committee can perform its administrative activities properly and in a way that is comprehensible to third parties at all times.*
- *The difficulties described in this report must lead to the recommendation that a review of the necessity of such a burdensome procedure for both the teams and the IOC must be ongoing.*
- *It is apparent to the IO Team that the IOC requirements regarding TUEs creates an anomaly with respect to the International Standard, which limits TUE applications from any athlete to*

one body. It is clear that the IOC decision on such applications has no ongoing validity and that applications to the relevant IF are also necessary.

- Lastly, the IO Team believes that the IOC must implement improved measures to ensure better dissemination of information about the complicated TUE process to the various participants.

## **VIII. Results Management**

- The IO Team recommends that results management be streamlined. As a result, the decision proposed by the IOCDC and submitted to the IOC President should generally be binding and final. In complex cases, or those considered controversial by the sports world, the IOC President should, however, have the opportunity to present the proposed decision by the IOCDC to the IOCEB for a decision. In such a case, the IOCEB would make the ultimate, final decision on the case without the IOCDC's proposed decision being binding, much like the system in place to date. This type of streamlining of the process would also be covered by the Olympic Charter, which explicitly states that the "IOCEB may delegate its powers to a disciplinary commission." The IO Team believes that this would also cover transferring responsibilities to the IOCDC beyond the conduct of hearings.
- The IO Team recommends harmonizing the rules of conflict of interest for the IOCDC and the IOCEB when dealing with anti-doping rule violations.
- The conflict of interest rule in Article 7.3.2 of the ADRIOC according to which grounds for exclusion exist if the member of the IOCDC has any declared or apparent conflict of interest with the IF of the athlete should be given more thought in the future.
- In the opinion of the IO Team, confidentiality should be guaranteed according to Article 13.1 of the ADRIOC not only up to and including the IOCDC's hearing, but until the IOCEB has issued a final decision in the case.
- The IO Team recommends that the consequences of voluntary return of accreditation and identity cards be reconsidered and, if necessary, that the rules and regulations be amended accordingly.
- The possibilities of the IOC to detect anti-doping rule violations in the entourage of an athlete are limited. The IO Team recommends, however, that if there are suspicious circumstances the IOC takes every possible step to investigate the matter irrespective of the possible outcome of such investigation. In any case other anti-doping organizations should be asked to follow-up a matter only if the IOC itself has exhausted all means of information gathering and if these other organizations are in a better position than the IOC to pursue the case.
- The IO Team is of the opinion that certain anti-doping rule violations justify longer periods of ineligibility in relation to the Games. However, the IO Team recommends standardizing the requirements for such a severe penalty in the ADRIOC so as not to give the appearance of arbitrariness.
- The IO Team recommends that the content and scope of Article 14.2 of the ADRIOC be clarified for the future.

## **IX. Consequences from the Hamilton case**

- The status of a laboratory with respect to its accreditation to provide a valid report for any particular substance must be clear prior to the initiation of analysis of any sample. In the view of the IO Team that status should be unequivocal and documented.
- The volume of testing and consequent results that occur at an Olympic Games suggests that receipt and review of those results by one person may be more than can be reasonably expected of an already busy IOC Medical Director. This case suggests clearly that additional

*checks and balances and formalized functions would be helpful such as a small internal result management review body. This would ensure that all reported laboratory information of a problematic nature are dealt with in a proper and timely manner both internally and externally (Note that the IO Team has commented earlier that a similar "bottleneck" exists with respect to the TUE process given the demands of the current rules).*

- *Laboratory "Reports of Analysis" should only refer to outcomes of tests that can be validated by the laboratory concerned. There should be no place for ambivalence in this respect on such reports. That is not to say that Laboratories should not be alert to situations where suspicions information exists. These should be reported but in an appropriate fashion and not via the formal "report of analysis". It would be non-sensical if an anti-doping program were not able to receive information and, where appropriate, act upon such information. Indeed, there were situations during the Games where suspicious information was received and acted upon in an appropriate way to uncover cases of doping.*