



MEDIA RELEASE

ARBITRATION USOC / IOC : THE "OSAKA RULE" DECLARED INVALID AND UNENFORCEABLE BY THE COURT OF ARBITRATION FOR SPORT (CAS)

Lausanne, 6 October 2011 – Following the joint request for arbitration filed by the United States Olympic Committee (USOC) and the International Olympic Committee (IOC) with respect to the validity of the “Regulations Regarding Participation in the Olympic Games - Rule 45 of the Olympic Charter” (also known as the “Osaka Rule”), the Court of Arbitration for Sport (CAS) has issued the following decision :

"The IOC Executive Board's June 27, 2008 decision prohibiting athletes who have been suspended for more than six months for an anti-doping rule violation from participating in the next Olympic Games following the expiration of their suspension is invalid and unenforceable."

The CAS Arbitral Panel, composed of Prof. Richard H. McLaren (Canada), President, Mr David W. Rivkin (USA) and Mr Michele Bernasconi (Switzerland), came to the conclusion that the “Osaka Rule” was more properly characterized as a disciplinary sanction, rather than a pure condition of eligibility to compete in the Olympic Games. Such a disciplinary sanction is not in compliance with Article 23.2.2 of the World Anti-Doping Code (WADC), which provides that the Signatories of the Code may not introduce provisions that change the effect of periods of ineligibility provisions of the WADC, because it adds further ineligibility to the WADC anti-doping sanction after that sanction has been served. The Panel further held that, because the IOC made the WADC a part of its own governing statute (the Olympic Charter, under Rule 44), the “Osaka Rule” is in fact a violation of the IOC’s own Statute and is therefore invalid and unenforceable.

The CAS Panel also emphasized that if the IOC wanted to exclude athletes who have been sanctioned for doping from the Olympic Games, it could propose an amendment to the World Anti-Doping Code, which would allow other Signatories to consider such an amendment and possibly to adopt it. If so, no *ne bis in idem* issue (prohibition against double jeopardy) would be raised, as the ineligibility would be part of a single sanction. Moreover, the principle of proportionality could be met because only one adjudicatory body would be in position to assess the proper sanction for a certain behaviour, taking into consideration the overall effect of the sanction to be imposed.

The award with the grounds is published on the CAS website www.tas-cas.org/jurisprudence.

For further information related to the CAS activity and procedures in general, please contact either Mr Matthieu Reeb, CAS Secretary General, or Ms Katy Hogg, Media Assistant. Château de Béthusy, Avenue de Beaumont 2, 1012 Lausanne, Switzerland. Tel: (41 21) 613 50 00; fax: (41 21) 613 50 01, or consult the CAS website: www.tas-cas.org