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Monitoring Framework for the International Convention against Doping in Sport

Summary

Document: International Convention against Doping in Sport

Background: This document contains proposals for developing a monitoring framework for the International Convention against Doping in Sport. Article 31 of the Convention requires States Parties to submit reports every two years to the Conference of Parties outlining measures taken by them for the purpose of complying with the provisions of the Convention. Under Article 30.1(d) it is a function of the Conference of Parties to examine the reports submitted by States Parties. In the present document, the Secretariat is proposing alternative monitoring methods, including the preparation of a questionnaire with targeted questions to facilitate reporting by States Parties. These proposals have been developed taking into account existing reporting mechanisms in particular that operated by the World Anti-Doping Agency (WADA) in accordance with Article 23.4 of the World Anti-Doping Code to monitor signatories' compliance with the Code. It is important to establish an effective and efficient monitoring mechanism so that States Parties reports may be considered at the second ordinary session of the Conference of Parties provisionally scheduled for 2009.

Decision Required: Paragraph 16

INTRODUCTION

1. It is important to establish an effective and efficient monitoring framework so that States Parties reports may be considered at the second ordinary session of the Conference of Parties provisionally scheduled for 2009 in accordance with Article 31 of the International Convention against Doping in Sport (hereinafter referred to as “the Convention”), which requires States Parties to submit reports every two years to the Conference of Parties on measures taken by them for complying with the provisions of the Convention. Under Article 30.1(d), it is a function of the Conference of Parties to examine the reports submitted by States Parties.
2. However, during the preparation of the Convention concern was expressed by a number of delegates about the ongoing costs of monitoring the implementation of the Convention. During the negotiation phase, the intergovernmental meeting of experts in charge of drafting the Convention recommended cooperation with the World Anti-Doping Agency (WADA) to reduce costs.
3. There was also a strong desire to limit, as far as possible, the duplication of reporting requirements. The competent national authorities of most States Parties already have reporting obligations to WADA as signatories to the World Anti-Doping Code (hereinafter referred to as “the Code”). There is a requirement for all signatories to the Code to report on their compliance with its provisions. Under Article 23.4.2 of the Code, each signatory must report to WADA on its compliance with the Code every second year and is required to explain any reasons for non-compliance. Some States Parties to the Convention may also be States Parties to the Council of Europe Anti-Doping Convention 1989 (hereinafter referred to as “the Council of Europe Convention”), which also provides reporting obligations. States Parties to the Council of Europe Convention are under obligation to provide information on legislative and other measures taken by them for the purpose of complying with the terms of the Council of Europe Convention in accordance with its Article 9. Given that the entry into force of the Convention may well introduce an additional reporting obligation for the competent national authorities of States Parties, when drafting the Convention the intergovernmental meeting of experts recommended that a self-assessment tool be developed by the Secretariat, taking into consideration existing reporting systems.

Monitoring Compliance with the World Anti-Doping Code

4. WADA has developed a simple and effective system for monitoring compliance with the Code under Article 23.4.1. WADA has tailor-made software (*WADALogic*) to facilitate reporting under the Code and a simple online survey developed featuring 28 multi-choice questions. The supporting software allows WADA to apply a factor of confidence to the responses of the signatories, to take into account shortcomings or omissions in reporting by a signatory to the Code on a particular aspect. There is also functionality to allow the weighting of particular questions, depending on the level of importance, so that compliance with core obligations under the Code can be distinguished from optional provisions. The *WADALogic* system can produce reports on individual signatories (signatories are recorded as fully compliant, partly compliant or non compliant) as well as across the total number of signatories. This allows WADA, as per its responsibilities under the Code, to report to the WADA Foundation Board and various constituents and to have the reports made available to the public, in accordance with Article 23.4.4 of the Code. The system also allows for those signatories who do not have on-line access or where there is no adequate e-mail system for a fax or hardcopy of the questionnaire to be sent to them directly to facilitate responses.

Monitoring Compliance with the Council of Europe Anti-Doping Convention 1989

5. A solid monitoring system has been established for the Council of Europe Convention. Following its entry into force on 1 March 1990, a questionnaire was developed requesting national reports from all States Parties.¹ This questionnaire was revised in 2004 by the Monitoring Group of the Anti-Doping Convention, established under its Article 10, and placed online allowing States Parties and observers to the Council of Europe Convention to enter the details of their report electronically. The current questionnaire features a number of detailed questions, some requiring simple multi-choice responses while others are open-ended questions requiring qualitative answers. The software application also allows respondents to attach electronic files, for examples copies of domestic anti-doping legislation to supplement their responses. Reports can then be prepared automatically which provide qualitative and quantitative data on national anti-doping policies as well as an informative summary report featuring information from all respondents.

BASIC FRAMEWORK

6. The Conference of Parties is requested to resolve two issues concerning the structure of the monitoring system for the Convention. The first question concerns the approach taken towards the development of the monitoring framework. A relatively simple tool could be developed utilizing a report format with a limited number of multi-choice questions in the first instance, or a more complicated questionnaire which seeks to capture a wider range of data on all aspects of anti-doping from States Parties. There are risks and advantages with either approach.
7. A simple approach to the monitoring of the Convention would allow for the collection of baseline data from all States Parties, recognizing the differing levels of experience in anti-doping across the States Parties. It would also have the effect, inherent in the implementation of the Convention, of facilitating harmonization of anti-doping practice throughout the world. However, it may mean setting the reporting threshold at a lower level than some States Parties may be used to, for example as concerns States Parties to the Council of Europe Convention. The development of a simplified reporting system could potentially compromise the utility of the data as the responses would be unlikely to provide comprehensive information on the state of global anti-doping efforts.
8. Alternatively the Conference of Parties may wish to consider a more complex reporting system requiring States Parties to provide detailed information on measures taken by them for implementing the Convention. A more detailed reporting system developed following the WADA model would likely to furnish better quality data. Moreover, given that the second ordinary session of the Conference of Parties will not be held until 2009, there may well be sufficient time for States Parties to collate all of the necessary information. Coordination should be ensured with the fulfillment of corresponding reporting obligations under the Code so as to avoid putting an excessive burden on States Parties.
9. At this early stage, the Secretariat favours a simple approach in the first instance. The primary goal should be to establish a system that allows all States Parties to report at the second ordinary session of the Conference of Parties with a view to obtaining an overview of anti-doping policies within each State Party. However, at that time, based on the

¹ The Council of Europe Convention also allows recourse to other monitoring tools, involving evaluation and consultative visits of the Council of Europe Secretariat as well as teams of independent anti-doping specialists in the countries concerned. These visits allow for the collection of further information and for additional questions to be put to the States Parties. Following the evaluation visit the Council of Europe Secretariat prepares a report, in consultation with the State Party, and may offer recommendations on how the State Party may refine its anti-doping system. This monitoring framework while comprehensive is resource intensive.

responses provided, the Conference of Parties should consider refining the framework and enhancing the level of information that States Parties are required to furnish. Accordingly, the Conference of Parties could request that the Secretariat provides a detailed report at the next ordinary session on measures to improve the monitoring framework.

10. The Conference of Parties is also requested to make a decision concerning the format of the monitoring system. There are two options for consideration: (1) a paper-based questionnaire or (2) a computer-based framework.
11. A paper-based system would be very cost effective to implement and it can also be easily refined or enhanced over time through targeted questions adapted to the evolution of the situation in the countries concerned. While this system would imply a risk of scarce responsiveness from States Parties, it would facilitate the tasks of national authorities in least developed countries with limited access to Internet facilities. A paper-based system would also require double entry of information if the Secretariat needs to prepare any reports on the data provided. Nevertheless, this appears to be the monitoring tool generally adopted within the United Nations system and its specialized agencies.
12. A more costly option would be to develop a computer-based system to monitor the Convention based on the existing mechanisms developed within WADA and the Council of Europe. The most compelling argument in favour of a computer-based monitoring tool is the ability to share data with other anti-doping monitoring tools. There could also be the ability to limit costs by contributing to the expansion of an existing reporting system. In this regard, the Conference of Parties may wish to consider the systems developed by WADA and the Council of Europe and direct the Secretariat to explore options for cooperation with these organizations.
13. It is difficult to identify funding under the regular budget of UNESCO for the establishment of a computer-based monitoring system. The funding allocated under the regular budget of UNESCO is limited in accordance with Article 32 of the Convention which states that the financing of the Secretariat from the regular budget of UNESCO is on a strictly minimal basis. Although extra-budgetary funds may be used for this purpose, it is clear that an effective monitoring system based on reports cannot be dependent on funds donated within the context of the Voluntary Fund for the Elimination of the Doping of Sport, as its regular functioning should always be ensured. Given these considerations, and the potential for the features of the reporting system to change over time, the Conference of Parties may wish to opt for a simple paper-based tool for reporting under Article 31 of the Convention, subject to consultations with WADA in the first instance but also with the Council of Europe. The outcome of these consultations could also be reported at the next ordinary session of the Conference of Parties on measures to improve the monitoring framework.

REPORTING ON THE OBLIGATIONS CONTAINED IN THE CONVENTION

14. It is proposed that the Secretariat take responsibility for the preparation of a questionnaire, subject to the above decisions, to facilitate reporting under Article 31 of the Convention. This questionnaire would elicit information from States Parties on the measures taken for complying with the provisions of the Convention. There are a number of articles under the Convention where specific actions are required of States Parties and it should be a relatively straightforward task to develop questions to collect the necessary data. However, these questions should be validated to ensure that the responses furnish the required information and that questions are coordinated with those asked to signatories of the Code and to States Parties to the Council of Europe Convention within the respective monitoring systems.

In order to demonstrate compliance, States Parties should outline actions taken to implement the operative articles of the Convention as outlined in the table below.

Relevant Article	Information required on States Parties actions to:
Article 7	<ul style="list-style-type: none"> • Ensure coordination at the national level
Article 8	<ul style="list-style-type: none"> • Restrict the availability of prohibited substances and methods in sport, unless the use is based on a Therapeutic Use Exemption • Implement measures against the trafficking of prohibited substances and methods in sport to athletes • Implement measures to control production, movement, importation, distribution and sale of prohibited substances and methods
Article 9	<ul style="list-style-type: none"> • Implement measures, including sanctions or penalties, aimed at athlete support personnel who commit an anti-doping rule violation under the Code or other offence connected with doping in sport
Article 10	<ul style="list-style-type: none"> • Encourage producers and distributors of nutritional supplements to establish best practices in the marketing and distribution of nutritional supplements including information on their analytical composition and quality assurance
Article 11	<ul style="list-style-type: none"> • Provide funding for national testing programmes across all sports • Take steps to withhold financial support to individual athletes and athlete support personnel who have been suspended following a doping offence in sport during the period of their suspension • Withhold financial or other sport-related support from any international or national federation not in compliance with the Code or applicable anti-doping rules adopted pursuant to the Code
Article 12	<ul style="list-style-type: none"> • Encourage and facilitate sports organizations and anti-doping organizations within their jurisdiction to carry out doping controls in a manner consistent with the code including no-advance notice, out-of-competition and in-competition testing • Encourage and facilitate the negotiation by sports organizations and anti-doping organizations of agreements permitting their members to be tested by duly authorized doping control teams from other countries • Assist sports organizations and anti-doping organizations within their jurisdiction to gain access to a laboratory accredited by WADA for the purposes of doping control analysis
Article 13	<ul style="list-style-type: none"> • Encourage cooperation between anti-doping organizations, public authorities and sports organizations within their jurisdiction and those within the jurisdiction of other States Parties
Article 16	<ul style="list-style-type: none"> • Facilitate the task of WADA and anti-doping organizations operating under its authority, subject to relevant host countries' regulations, to conduct in- or out-of-competition doping controls on their athletes, whether on their territory or elsewhere • Facilitate the timely movement of duly authorized doping control teams across borders when conducting doping controls • Cooperate to expedite the timely shipping or carrying across borders of samples in such a way as to maintain their security and integrity • Assist in the coordination of doping controls by various anti-doping organizations and cooperate to this end with WADA • Promote cooperation between doping control laboratories within their

	<p>jurisdiction and those within the jurisdiction of other States Parties and assist other States parties to acquire the experience, skills and techniques necessary to establish their own laboratories should they wish to do so</p> <ul style="list-style-type: none"> • Encourage and support reciprocal testing arrangements between designated anti-doping organizations in conformity with the Code • Mutually recognize the doping control procedures and test results management, including the sports sanctions thereof, of any anti-doping organization that are consistent with the Code
Article 19	<ul style="list-style-type: none"> • Support, devise or implement education and training programmes on anti-doping for athletes and athlete support personnel
Article 20	<ul style="list-style-type: none"> • Encourage relevant professional associations and institutions to develop and implement appropriate codes of practice and ethics related to anti-doping in sport, which are consistent with the Code
Article 21	<ul style="list-style-type: none"> • Promote and support active participation by athletes and athletes support personnel in all facets of the anti-doping work of sports and other relevant organizations and encourage sports organizations within their jurisdiction to do likewise
Article 22	<ul style="list-style-type: none"> • Encourage sports organizations and anti-doping organizations to implement ongoing education and training programmes for all athletes and athlete support personnel on anti-doping
Article 23	<ul style="list-style-type: none"> • Cooperate mutually and with relevant organizations to share information, expertise and experiences on effective anti-doping programmes
Article 24	<ul style="list-style-type: none"> • Encourage and promote anti-doping research in cooperation with sports and other relevant organizations
Article 26	<ul style="list-style-type: none"> • Share the results of available anti-doping research with other States Parties and WADA
Article 27	<ul style="list-style-type: none"> • Encourage members of the scientific and medical communities to carry out sport science research and encourage sports and athlete support personnel within their jurisdiction to implement sport science research consistent with the principles of the Code

15. There are a number of common themes in the operative paragraphs of the Convention, the Code and the Council of Europe Convention. Therefore, regardless of the approach taken or format adopted, every effort should be made to harmonize the questions put to the competent national authorities of States Parties. Accordingly, the Conference of Parties should encourage the Secretariat to cooperate closely with these organizations in the development of the final questionnaire.

DRAFT RESOLUTION 1CP/6

16. The Conference of Parties may wish to adopt the following resolution:

The Conference of Parties,

1. *Having examined document ICDS/1CP/Doc5*

2. *Recognizing* that the system established by the World Anti-Doping Agency for monitoring compliance with the World Anti-Doping Code and the monitoring system developed by the Council of Europe to monitor compliance with the Anti-Doping Convention 1989 are deemed to be good practice models in the fight against doping in sport,
3. *Requests* the Secretariat to prepare a simple paper-based questionnaire on the measures taken by States Parties for the purpose of complying with the provisions of the Convention to facilitate reporting under Article 31 of the Convention,
4. *Requests* the Secretariat to enter into discussions with the World Anti-Doping Agency in the first instance, but also with the Council of Europe, on options for harmonizing questions and options to develop a computer-based monitoring tool,
5. *Requests* the Secretariat to prepare a detailed report for the next ordinary session of the Conference of Parties on measures to improve the monitoring framework.