

# INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES (ISCCS) Consultation - First consultation phase

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## INTERNATIONAL STANDARD FOR CODE COMPLIANCE BY SIGNATORIES (General Comments) (6)

### International Cricket Council

SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)  
Sport - IF – IOC-Recognized

Cricket's submission is not only a representation of the ICC but a collation of the ICC and its Member's comments.

### ISU

SUBMITTED

Christine Cardis, Anti-Doping Administrator (Switzerland)  
Sport - IF – Winter Olympic

Initial internal comments (eg deadlines, rule of law issues, CRC competences) widely implemented.

ISU, in order to avoid any misunderstanding, wishes to emphasize that

*“8.2.3 Code Article 20 requires International Federations, National Olympic Committees and National Paralympic Committees to monitor and enforce Code compliance by their members/recognized bodies. Accordingly, WADA will not actively monitor Code compliance by those members/recognized bodies, but rather will expect the Signatories in question to do so. If in the course of its monitoring activities WADA learns of apparent non-compliance with the Code by a member/recognized body of such Signatory, it will notify the Signatory for appropriate follow-up and action in accordance with the Signatory's obligations under the Code.”*

Read together with art 20.2.3 WADC *“To require as a condition of membership that the policies, rules and programs of their National Federations and other members are in compliance with the Code, and to take appropriate action to enforce that condition.”*

cannot be understood as making the ISU responsible for Code violations of its Members. They are separate legal persons and hold own legal responsibility. The ISU wishes to refer to the general principle of law *“ultra vires nemo obligatur”*.

### China Anti-Doping Agency

SUBMITTED

Zhaoqian LUAN, . (China)  
Sport - Other

1. Practice shows that 3 months is indeed too hasty for the modification of key items because many of them are concerned about the signatory's anti-doping system, organization and rules. However, reconstructing the system, improving the organization, amending the rules involve a lot of complex work. Besides, it takes more time to communicate with WADA regarding the rules, get WADA's recognition and approval from the Chinese superior administration. Therefore, we think the time for rectification of key items should be appropriately extended while the rectification time for high priority and important items, many of which are specific technical problems, can be relatively shortened so as to improve the efficiency of rectification.

## We support the ISCCS as a crucial tool for protecting clean athletes

1.

The ISCCS was unanimously approved by the WADA Foundation Board in November 2017. It was an important reform that responded, at least in part, to the Russian doping scandal and must be retained.

2.

WADA has recently commented that the Russian doping scandal highlighted a gap in the international anti-doping system because, at the time, there “were no defined sanctions agreed by all stakeholders that could be applied; and, there was no clear delineation as to which organizations were accountable for applying consequences...”. The ISCCS addresses this gap by, amongst other things, establishing graded, predictable and proportionate sanctions for non-compliance with the Code.

3.

The ISCCS was widely and publicly consulted on during its development. We remain committed to it as a crucial tool for encouraging compliance with the Code and thereby protecting the rights of clean athletes.

## Antidoping Switzerland

SUBMITTED

Ernst König, CEO (Switzerland)  
NADO - NADO

General comments: There is a clear need for a defined set of rules on Code compliance, that is why Antidoping Switzerland supported the introduction of the ISCCS. However, there is a fine line between setting out clear rules and regulations and overregulating a business. The administrative burden for signatories is already very high, and especially for smaller ADOs the administration of Code compliance is taking up significant resources that could otherwise be used for effectively fighting doping.

The outlined prioritization of ADOs into 3 tiers for the introduction of the ISCCS is a good way of increasing the effectiveness of the available resources. It should be considered if this risk based approach can be applied in a similar way based on the outcome of the CCQ. For example, if an ADO has a high number of corrective actions to implement, it might be audited again in a short period of time, whereas if an ADO has no or very few corrective actions, the period until the next audit/CCQ can be extended. This risk based approach has been implemented in audition programs in different business areas successfully for a long time.

## Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Manager, Sport Services (Canada)  
NADO - NADO

For clarity and consistency, consider using the CRC acronym in every instance after its first mention as it has been specifically defined (as opposed to using “Compliance Review Committee” sporadically.)

The CCES remains concerned that there is a potential for deadlock. For example, what happens if the Executive Committee doesn’t follow a CRC recommendation and the CRC is not prepared to change their recommendation. How does the situation get resolved?

As a general comment for the final version of this Standard, CCES recommends providing hyperlinks to references within the Code, Annexes and other Articles within the Standard.

As a general comment to this Standard, CCES recommends using “their” in place of “his/her” to comply with gender inclusivity norms.

## Part One: Introduction, Code Provisions, International Standard Provisions, and Definitions (1)

### IAF

SUBMITTED

Wilko Vriesman, General Secretary (Nederland)  
Sport - IF – Non IOC-Recognized SportAccord

We are a Signatory IF , which is mandatory to be member of GAISF. So it is for us essential, to create a way of being Code Compliant , as a discipline without Competition.  
Code Compliancy should be possible for a discipline without Competition. That means that the International Standard Provisions, and Definitions should include this option, as a different form to be /stay Code Compliant.

### 2.0 Relevant Code Provisions (Fixed text; no comments requested) (1)

#### International Cricket Council

SUBMITTED

Vanessa Hobkirk, Anti-Doping Manager (United Arab Emirates)  
Sport - IF – IOC-Recognized

Article 20.3.6: NSF requirement to report to IF and NADO

In case where the NADO does not have jurisdiction over the NSF, the NSF should report any information suggesting or relating to an ADRV to the IF and WADA

Article 23.1.2: Other sport organisations as WADA Signatory

In exceptional circumstances, where the functioning of NADO has shortcomings, the NSF either directly or through the IF should be invited by WADA to be a Signatory, provided the NSF fulfils all other requirements of the WADA Code. Importance should be given to an effective anti-doping program with regard to detection, deterrence and prevention of doping.

### 4.0 Definitions and interpretation

#### 4.3 Defined terms specific to the International Standard for Code Compliance by Signatories (2)

##### NADA Austria

SUBMITTED

Alexander Sammer, Head of Legal (Austria)  
NADO - NADO

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The Term “Anti-Doping Activities” in the ISCCS could be implemented in the Code as well since it summarizes the current workload of ADOs.

##### Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Manager, Sport Services (Canada)  
NADO - NADO

CCES recommends expanding the scope of Aggravating Factors to include the other categories of non-

compliance, especially requirements that are High Priority. The current definition only attributes Aggravating Factors to requirements that are Critical. CCES believes that “bad faith” can be demonstrated in association with all levels of Code and ISCCS non-compliance.

## Part Two: Standards for WADA’s Monitoring and Enforcement of Code Compliance by Signatories (2)

### Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)  
NADO - NADO

To review the medical criteria especially for the granting of the AUTs to the WADa Revision Committee must take into account the translations into the NADOs languages when making the observations. It is necessary to be very delicate in the expressions because the change of language often lends itself to confusion when analyzed interpret and propose the changes to be made in the national anti-doping regulations of each country to the comppliance with WADC

### Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Manager, Sport Services (Canada)  
NADO - NADO

CCES remains concerned that, outside of the fast track process, the entire compliance process can theoretically take two years to complete from start to end. This lengthy timeframe for compliance resolution allows ample time for transgressions to continue to occur, athletes to continue competing despite potentially compromised procedures thus creating the probable situation of having to manage consequences retroactively.

## 6.0 WADA’s Compliance Monitoring Program (1)

### Freelance journalist

SUBMITTED

Karayi Mohan, Freelance journalist (India)  
Other - Other (ex. Media, University, etc.)

Compliance is lacking in man respects in many organisations. More needs to be done.A few points have been mentioned in subsequent sections.

## 6.1 Operational Oversight of Code Compliance (1)

### Freelance journalist

SUBMITTED

Karayi Mohan, Freelance journalist (India)  
Other - Other (ex. Media, University, etc.)

1. Anti-doping cases take anything from eight months to one year to two years in some cases in India. The rules stipulate they should be completed within three months. The uncertainty for long periods leaves the athletes frustrated not to speak of denying them chance to compete in important competitions should their cases be resolved within reasonable time and the decisions be in their favour. Yet, NADA India is Code compliant;
2. There is a provision within the Code and in the NADA India rules that state that authorities should publish a list of athletes tested on an annual basis, number of tests done and the dates on which the tests were done. NADA India has, till to date, not published a list for any year since its inception in 2009;
3. NADOs are supposed to be "independent". So too disciplinary panels and appeal panels. Are they really independent? The NADA India governing structure is completely dominated by the Government nominees; Should there be more representation for former Olympian athletes and people from scientific and legal community?

4. NADA India recommends most of the panel members for disciplinary and appeal panels to the Government. Can 'independence' be maintained in such circumstances? Independence and neutrality is also lost when a Governing Body members of the WADA-accredited laboratory is appointed a disciplinary panel member.

## 6.2 Independent Review and Recommendations (2)

### China Anti-Doping Agency

Zhaoqian LUAN, . (China)

Sport - Other

SUBMITTED

**Article 6.2.1** It is recommended to improve the representation of the CRC members, especially to increase the number of representatives from Asia, Africa and Latin America.

### NADA Austria

Alexander Sammer, Head of Legal (Austria)

NADO - NADO

SUBMITTED

WADA's assessment that the members of the CRC are independent, political neutral and specialized should be subject to challenge in order to give this panel even more credibility.

## 7.0 WADA's Support for Signatories' Efforts to Achieve/Maintain Code Compliance

### 7.2 Operational and Technical Support (1)

### NADA Austria

Alexander Sammer, Head of Legal (Austria)

NADO - NADO

SUBMITTED

The possibility of signatories to seek assistance of third parties (Article 7.2.4) and WADA's possibility to cooperate with other relevant bodies like UNESCO, CoE, etc. (Article 8.3.1) raises a number of data protection challenges since it is not comprehensible for the owner of specific data (eg. An athlete applying for a TUE), who has access to his data at large.

## 8.0 Monitoring Signatories' Code Compliance Efforts

### 8.2 Prioritization Between Different Signatories (2)

### China Anti-Doping Agency

Zhaoqian LUAN, . (China)

Sport - Other

SUBMITTED

**Article 8.2.1** Given that ITA will take on more and more tasks and play an increasingly important role, whether ITA complies with the Code determines whether the out-of-competition testing conducted by major international events and IFs is Code compliant. It is recommended that the organization be included in the scope of signatories.

### Canadian Centre for Ethics in Sport

Elizabeth Carson, Manager, Sport Services (Canada)

NADO - NADO

SUBMITTED

CCES recommends including private companies and International Federation integrity units providing anti-doping services into the scope of the ISCCS as their processes and procedures should be held to the same oversight and discipline as Signatories to the Code. That being said, ADOs that choose to use third-party service providers would continue to be held accountable and responsible for the actions of those parties.

### 8.3 Cooperation with Other Bodies (1)

#### NADA Austria

Alexander Sammer, Head of Legal (Austria)  
NADO - NADO

SUBMITTED

The possibility of signatories to seek assistance of third parties (Article 7.2.4) and WADA's possibility to cooperate with other relevant bodies like UNESCO, CoE, etc. (Article 8.3.1) raises a number of data protection challenges since it is not comprehensible for the owner of specific data (eg. An athlete applying for a TUE), who has access to his data at large.

### 8.4 WADA's Monitoring Tools (3)

#### NADA Austria

Alexander Sammer, Head of Legal (Austria)  
NADO - NADO

SUBMITTED

Art 8.4.1.5

Letter (c) should not only be reduced to annual statistical reports on doping control activities since education programs are also of critical interest (see Annex A1.b)

#### International Testing Agency

International Testing Agency, Legal Affairs Manager (Switzerland)  
Other - Other (ex. Media, University, etc.)

SUBMITTED

In light of the change in the Code in relation to delegation of anti-doping activities to third parties, consider adding the following new provision:

**8.4.1.5. When a Signatory delegates aspects of Doping Control to a third party, the Signatory shall ensure that the third party is subject to WADA's monitoring and, when requested by WADA, complies with WADA's requests, including but not limited to Compliance Audits, Mandatory Information Requests and/or the Corrective Action Plan.**

#### International Paralympic Committee

James Sclater, Director (Germany)  
Other - Other (ex. Media, University, etc.)

SUBMITTED

8.4.1.3- The IO programme is an ineffective method to measure the compliance of major events. Many questions have to be asked: who is being reviewed? If it is the MEO, then it only evaluates its Games-time role and not the ongoing activities (IF and NADO compliance are not only monitored with respect to IC testing). If it is the LOCOG, what benefit would naming a Games non-compliant after the Games are over? What about the Major Events that do not have an IO programme?

8.4.1.5-6- It should be ensured that there is a quality aspect to the compliance and it is not just a box ticking exercise to maintain minimum standards. TDP, Risk Assessments and Whereabouts compliance must

be proportional to the size and risk level of the sport.

## 8.7 The Compliance Audit Program (2)

### China Anti-Doping Agency

Zhaoqian LUAN, . (China)  
Sport - Other

SUBMITTED

**Article 8.7** At present, there is little communication between the signatories undergoing WADA audit. Other anti-doping organizations have no understanding of the results of the audit, which is not in favor of the signatories to improve their work in the subsequent audits and the overall improvement of global anti-doping work. Audit is a means, but not an end. The key is not to find the problem, but to help the signatory to solve the problem. It is recommended that an additional article should be added to publish the results of the audit either anonymously or only in part, which will facilitate the experience sharing among anti-doping organizations.

### NADA Austria

Alexander Sammer, Head of Legal (Austria)  
NADO - NADO

SUBMITTED

Art 8.7.4

Why is it necessary to inform at least one month in advance? Possible non-compliances could be covered. There should be the possibility for surprise no-advance-notice audits if there is certain information or evidence about possible non-compliances.

## 9.0 Giving Signatories the Opportunity to Correct Non-Conformities (1)

### Freelance journalist

Karayi Mohan, Freelance journalist (India)  
Other - Other (ex. Media, University, etc.)

SUBMITTED

The International Cricket Council (ICC) is a Code signatory. Yet, one of its constituent units, the Board of Control for Cricket in India (BCCI) still does not follow the provisions in the Code. The BCCI does not recognise the authority of the NADO of India (NADA), has an independent structure for domestic testing and has so far resisted all attempts by NADO and the Government to bring it under the normal anti-doping umbrella as dictated by the Code. Yet, the ICC is deemed Code compliant and WADA continues to discuss issues with it. The ICC still retains a clause in its anti-doping rules that legitimizes the BCCI non-compliance. ICC rules:

1. "13.2.3 Notwithstanding Article 13.2.2(d), the Board of Control for Cricket in India (the National Cricket Federation for the territory of India) does not recognize the authority or jurisdiction of the National Anti-Doping Organization for India. Therefore, the right of appeal for National Anti-Doping Organizations under Article 13.2.2(d) shall not be available to the National Anti-Doping Organization in India in respect of decisions taken pursuant to the ICC Code."

## 9.2 Corrective Action Reports and Corrective Action Plans (1)

### Anti-Doping Norway

Anne Cappelen, Director Systems and Results Management (Norway)  
NADO - NADO

SUBMITTED

## Corrective action requests of non-compliance

9.2.1 of the standard identifies corrective actions related to a Signatory's rules or regulations. The requirement recognises that the possibility of a timeline beyond three months is possible due to political processes. 9.2.2 of the standard identifies timelines for all other corrective action requests for identified non-conformities. The requirements state that critical non-conformities must be corrected within three months, high-priority within six months and other within nine months.

Most of the requirements in the Code and Standards relates to a doping control program, blood passport, investigation and other topics requiring time to plan, initiate and implement for these programs to run as efficiently as intended by the Code and relevant Standards. The timelines in 9.2.2 is giving little time to plan and implement in a manner that will ensure sustainable programs and processes to the expected and desired quality.

Even though a Signatory most likely will have had years to address these issues but still has for one reason or another not done so, it is, nevertheless, necessary to "hurry slowly" to plan, prepare and initiate complicated requirements. WADA emphasise in the introduction of the Standard, that the intention is to ensure compliance and thus assist any Signatory to address topics requiring attention to become compliant. Compliance, as such, must be expected to be of a quality that has the possibility of providing the necessary results and not just a paper exercise or actions with little or no sustainable effects.

Anti-Doping Norway therefor suggests that 9.2.2 also allow for possibilities to provide plans, timelines and an initiation of plans as adequate corrective actions subject to follow up, as appropriate.

### 9.5 Fast Track Procedure (1)

#### Canadian Centre for Ethics in Sport

Elizabeth Carson, Manager, Sport Services (Canada)  
NADO - NADO

SUBMITTED

CCES recommends further specification of the triggers for non-conformity identified in 9.5.1.1. This article would be best served by including wording that describes the initiation of this process in practical terms. This would include further defining when WADA Management would trigger the fast track process and highlighting how political decisions and implications might come into play.

### 10.0 Confirming Non-Compliance and Imposing Signatory Consequences (1)

#### NADA Austria

Alexander Sammer, Head of Legal (Austria)  
NADO - NADO

SUBMITTED

Art 10.2.1

Good provisions in terms of transparency, but depends on the content of the summary.

### 10.2 Consideration by WADA Executive Committee (1)

#### Anti-Doping Norway

Anne Cappelen, Director Systems and Results Management (Norway)  
NADO - NADO

SUBMITTED

## Decision body non-compliance/compliance

10.2 of the standard identify the WADA Executive Committee to be the decision body of the CRCs recommendation of non-compliant of a Signatory.

Anti-Doping Norway suggest that the decision body of the CRSs recommendation should be moved to the WADA Foundation Board to ensure an open process available to the Signatories with access to all decisions, including the explanation of the decisions.

## 11.0 Determining Signatory Consequences

### 11.2 Principles Relevant to the Determination of the Signatory Consequences to be applied in a Particular Case (2)

#### **NADA Austria**

Alexander Sammer, Head of Legal (Austria)

NADO - NADO

SUBMITTED

In a framework promoting clean sport there is no place for words like “fight against doping” or “Scourge of Doping” (like in ICSSC 11.2.4 & 11.2.6)

#### **Canadian Centre for Ethics in Sport**

Elizabeth Carson, Manager, Sport Services (Canada)

NADO - NADO

SUBMITTED

CCES would like to recommend the removal of the provisions within the ISCCS to protect the ongoing participation in sport by ‘neutral’ athletes. CCES has concerns that creating a single global system for validating the rights of ‘neutral’ athletes may further complicate an already complex ISCCS document. CCES agrees that while there will be inevitable collateral consequences for athletes when a Signatory is finally determined to be non-compliant, this could effectively be sorted out on a sport by sport basis as the IAAF has done. Alternatively, should it be determined that these provisions be left in the ISCCS with the intention of suggesting that the IAAF model be adopted for all sports as the way to approve participation by neutral athletes, then the CCES recommends that further details be added to best define this process.