

2027 Code & International Standard Update Process : Stakeholder Engagement Phase - International Standard for Intelligence and Investigations (ISII)

Showing: All (134 Comments)

Concept #1 – Gathering, Assessment, and Use of Anti-Doping Intelligence (23)

International Tennis Integrity Agency

SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

The ITIA is very supportive of the importance of a strong intelligence and investigative function.

Sport NZ

SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.

The fifth bullet point suggests that WADA is contemplating making trend analysis by ADOs mandatory. While Sport NZ agrees that this is optimal, any mandatory requirements should be realistic for smaller ADOs. It would be helpful for WADA to provide practical advice on how to optimise trend analysis relative to the available resources of the ADO.

On making it mandatory for ADOs to adopt policies and procedures for information sharing with law enforcement and to protect information sources, Sport NZ notes the cost and capability burden for small ADOs, and recommends that WADA only adopt realistic requirements that can be met by smaller ADOs. For instance, WADA could provide adaptable policies and procedure templates on these topics.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

§1 ADOs must ("shall") ensure they are able to obtain, assess and process anti-doping intelligence from all available sources (as per ISTI Article 11.1).

The comment to Article 11.1 ISTI states that "WADA has devised Intelligence and Investigations Guidelines with case studies to assist Anti-Doping Organizations to better understand the types of 'non-analytical' intelligence that may be available."

Recommendation: For compliance purposes it is important that the wording in the ISSI remains "may be available".

§2 ADOs must ("shall") do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1).

Article 11.2.1 ISTI refers to "anti-doping intelligence from all available sources, including, but not limited to (...) law enforcement, other regulatory and disciplinary bodies". Depending on national legislation, information from these sources may not be available to the NADO.

Recommendation: For compliance purposes it is important that the wording in the ISSI will read "may be available".

- ADOs must (“shall”) have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2).

- ADOs must (“shall”) ensure that they are able to assess all anti-doping intelligence upon receipt for “relevance, reliability, and accuracy” (as per ISTI Article 11.3.1).

- All anti-doping intelligence captured or received by an ADO should be “collated and analyzed to establish patterns, trends and relationships” that may assist the work of an ADO (as per ISTI Article 11.3.2).

- The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).

- ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2).

- ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).

Supported partly

A certain level of flexibility should be kept in what ADO could or shall do.

COCOM

Stephanie Sirjacobs, Legal adviser (Belgium)
NADO - NADO

SUBMITTED

ok pour mieux développer/expliciter dans ISTI ou ailleurs, mais pas pour rendre plus contraignant car pour les petites ONADS, c'est très compliqué. En effet, cela risque de mettre les petites ONADS en difficultés car elles n'ont pas toujours le personnel hautement qualifié à un tel process et quand bien même elle engagerait, le travail pourrait ne même pas atteindre un mi temps en raison de la faible portée géographique. Si l'AMA devait poursuivre cette idée, il est primordial qu'elle prévoit elle-même les règles essentielles de procédure en tenant compte de la diversité dans les infrastructures et ressources des ONADS.

Organizacion Nacional Antidopaje de Uruguay

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

SUBMITTED

No comments

NADA

NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

SUBMITTED

ADOs must (“shall”) ensure they are able to obtain, assess and process anti-doping intelligence from all available sources (as per ISTI Article 11.1).

Comment NADA: Agree

ADOs must (“shall”) do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1).

Comment NADA: Agree

ADOs must (“shall”) have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2).

Comment NADA: Agree

- However, it is suggested to include template-policies to guarantee a minimum standards of these policies and procedures (“How to”).
- Agree that handling human sources will be included in a separate concept.

ADOs must (“shall”) ensure that they are able to assess all anti-doping intelligence upon receipt for “relevance, reliability, and accuracy” (as per ISTI Article 11.3.1).

Comment NADA: Agree

All anti-doping intelligence captured or received by an ADO should be “collated and analyzed to establish patterns, trends and relationships” that may assist the work of an ADO (as per ISTI Article 11.3.2).

Comment NADA: Agree

The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).

Comment NADA: Agree

- It is suggested to add further guidelines to guarantee a minimum standard (“How to”)

ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2).

Comment NADA: Agree

- It is suggested to add further guidelines to guarantee a minimum standard (“How to”)

ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).

Comment NADA: Agree

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

SUBMITTED

According to the Concepts in regard to the new ISII we in general agree and consider the implementation of an ISII to be necessary.

ONAD Communauté française
Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

International Standard for Intelligence and Investigations

Referring to the previous European positions of April and September 2023 on this subject, it is necessary, for this proposal for a new Standard, to carry out a prior impact assessment.

This prior impact assessment must at least cover the resources of the signatories, the applicable legislation and rules and the rights of athletes.

Another general question is how necessary is this Standard? Is there a demand and if so, how big is it?

As highlighted in the general remarks, as well as those relating to the ISE, new requirements should not be added. Human resources have been increased recently but these are limited and cannot be increased constantly.

Here, this new Standard is presented as an achievement but this should be carefully considered, further explained and further discussed in the light of the impact evaluation described above, as well as a prior explanation as to the possible need for adopt yet another new Standard.

Alternatively and more flexibly, it should be considered to develop or adapt a less mandatory instrument such as guidelines, without adding new requirements and without modifying the current rules.

Without prejudice of these principles, about:

1) Gathering, Assessment, and Use of Anti-doping Intelligence :

- ADOs must ("shall") ensure they are able to obtain, assess and process anti-doping intelligence from all available sources (as per ISTI Article 11.1).

The ISII Drafting team considers this to be a foundational objective, and it should remain a mandatory requirement.

-> Yes, it should remain mandatory but not necessarily in an additional International Standard. We refer to our general remarks on this subject above.

- ADOs must («shall») do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1).

-> Yes, it should remain mandatory but not necessarily in an additional International Standard. We refer to our general remarks on this subject above.

- ADOs must ("shall") have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2).

-> Yes, it should remain mandatory but not necessarily in an additional International Standard. We refer to our general remarks on this subject above.

-> Ok to establish a better guidance on human sources (e.g., source registration, management, and use) but via guidelines and not by adding additional requirements.

- ADOs must ("shall") ensure that they are able to assess all anti-doping intelligence upon receipt for «relevance, reliability, and accuracy» (as per ISTI Article 11.3.1).

-> Yes, it should remain mandatory but not necessarily in an additional International Standard. We refer to our general remarks on this subject above.

- All anti-doping intelligence captured or received by an ADO should be «collated and analyzed to establish patterns, trends and relationships» that may assist the work of an ADO (as per ISTI Article 11.3.2).

-> This is not a mandatory requirement currently.

-> The agency admits here to having a concern about the resources of the ADOs (e.g., about a trained analyst).

-> If this becomes a new requirement, there will likely be an impact on resources.

-> This refers to the general comment that the Agency must first carry out an impact assessment of the proposed concepts on the resources of the Signatories. In any case, it must be carried out quickly for this concept, especially if the proposal consists of adding a new requirement.

-> There is no difficulty in adding explanations or clarifications in guidelines or in the commentary to the article, but new requirements should not be added without justifying them and establishing their necessity on the basis of established data.

-> Given the above, this concern should rather be addressed in guidelines in order to clarify expectations while taking into account the limited resources of ADOs, particularly the smallest.

- The ISTI details the purposes for which anti-doping intelligence must («shall») be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).

The use of anti-doping intelligence is broader than developing a test program. It can be used to drive prevention and deterrence strategies (e.g., education, proactive outreach, communication strategies etc.) thereby, enabling ADOs to better distribute their limited resources to areas of highest risk. Consequently, direction within the ISII on the effective use of intelligence regarding non analytical cases will be considered.

-> We agree in principle.

-> Anti-doping information may be used for purposes other than carrying out controls and in particular also for investigations but also to possibly carry out prevention and deterrence and in particular certain targeted communication strategies.

-> However, if it could indeed be useful to specify it further, we refer to our general remark on this Standard. No explanation on the need for a new Standard was provided. This is expected in advance.

-> Furthermore, if anti-doping purposes other than those of tests and investigations were to be specified, it would probably be useful, even necessary, to also provide for them in the Code and/or in the Standard for the protection of personal information.

- ADOs «should also develop and implement policies and procedures for the sharing of intelligence» (as per ISTI Article 11.4.2).

This is not a mandatory requirement in the ISTI. Nevertheless, the ability to share information with relevant entities and authorities is considered by the ISII Drafting teams as fundamental to the effectiveness of an antidoping program and representative of the need for a holistic and collaborative approach to anti-doping. The ISII Drafting team is therefore considering making this element mandatory.

-> We share the idea that cooperation with other entities, in particular with the police and justice forces, is necessary for an effective fight against doping and particularly to fight against organized doping.

-> In this context, procedures and/or a legal framework are elements which make it possible to better establish and therefore strengthen this cooperation.

-> Many ADOs already have these procedures and legal framework in place.

-> On the other hand, smaller ADOs or those with more limited resources may not formally have this framework or these procedures in place. However, this does not prevent them from cooperating with law enforcement and judicial authorities, where appropriate.

-> For ADOs which are public authorities, in the event of facts qualifying as an infringement, this cooperation is even obligatory, in all cases, even outside the scope of application of the anti-doping rules.

-> In conclusion, we are completely convinced of the usefulness of rules and procedures relating to cooperation with police forces and judicial authorities. This is also and already the case in Belgium.

-> On the other hand, we are wondering, from a perspective of proportionality and flexibility, of the necessity and feasibility of making this element mandatory, in particular for the smallest ADOs whose resources are even more limited and/or whose field of competence requires little or no structured cooperation with police forces and judicial authorities.

-> In this sense, we believe that Article 11.4.2 of the ISTI should remain as it is currently drafted.

-> Furthermore, the question of mutual sharing of information, in particular with police forces and judicial authorities, raises questions in terms of confidentiality and respect for applicable national or international law. This element must also be taken into account in the overall reflection on this subject.

- ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).

ISII Drafting team considers the area of human sources to be one of the most important and an area requiring consideration and clarity. This question is subject to the specific concept «Human Source Management, Use and Oversight».

-> We also find this to be an important topic.

-> Our comments will be taken up in the next concept.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

■

Concept #1 – Gathering, Assessment, and Use of Anti-Doping Intelligence

Much of the ISII content will be founded on the previous requirements as outlined in the ISTI. Accordingly, as it relates to the gathering, assessment, and use of anti-doping intelligence, the ISII Drafting Team has chosen to retain certain concepts set out at ISTI Article 11 as a guide for establishing the key areas which it intends to include in the ISII. Where applicable, the ISII Drafting Team has outlined the reasoning for the inclusion of any mandatory requirements. –

ADOs must (“shall”) ensure they are able to obtain, assess and process anti-doping intelligence from all available sources (as per ISTI Article 11.1).

The ISII Drafting Team considers this to be a foundational objective, and it should remain a mandatory requirement in the ISII. –

Comment – It is agreed that this should remain a foundational objective.

ADOs must (“shall”) do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1).

The ISII Drafting Team considers this to be a foundational capacity and it should remain a mandatory requirement in the ISII.

Comment – It is agreed that this should remain a mandatory requirement.

ADOs must (“shall”) have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement. However, the ISII Drafting Team proposes to establish better guidance on the issue of human sources (e.g., source registration, management, and use). The issue of human sources is the subject of a specific concept below (see Concept #2).

Comment – It is agreed that this should remain a mandatory requirement however it is important to create a clear distinction between sources of intelligence in a general sense, whistle blowers, and covert human intelligence sources. Within less experienced ADO’s these concepts may sometimes be confused or conflated. It is acknowledged that the WADA SHIN group is working in this area.

ADOs must (“shall”) ensure that they are able to assess all anti-doping intelligence upon receipt for “relevance, reliability, and accuracy” (as per ISTI Article 11.3.1).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

Comment – It is agreed that this should remain a mandatory requirement. There is little point in gathering intelligence if there is no capacity to assess it.

All anti-doping intelligence captured or received by an ADO should be “collated and analyzed to establish patterns, trends and relationships” that may assist the work of an ADO (as per ISTI Article 11.3.2).

The ISII Drafting Team understands the history and purpose of this non-mandatory requirements. However, it is concerned by the consequences of those ADOs who neither collate nor analyze their anti-doping intelligence, and by those ADOs who have insufficient resources (e.g., a trained analyst) to conduct any analysis of their intelligence. The ISII Drafting Team proposes to provide clarity around the expectations of collating and analysis to provide ADOs a better understanding of this requirement.

Comment – It is agreed that clarity is required in this area as some ADO’s will not be in a position to gather sufficient intelligence to establish patternstrends and relationships.

The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).

The ISII Drafting Team acknowledges the importance of testing, generally, and intelligence led testing, more particularly. However, the ISII Drafting Team notes that globally less than 1% of samples collected produce an Adverse Analytical Finding (“AAF”). Moreover, the use of anti-doping intelligence is broader than developing a test program. It can be used to drive prevention and deterrence strategies (e.g., education, proactive outreach, communication strategies etc.). thereby, enabling ADOs to better distribute their limited resources to areas of highest risk. Consequently, direction within the ISII on the effective use of intelligence regarding non-analytical cases will be considered.

Comment – It is agreed that ADO’s should be encouraged to adopt the broadest possible use of intelligence however it may be useful to provide “guidance” within the ISII as opposed to “direction”.

ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2).

The ISII Drafting Team notes that this is not a mandatory requirement in the ISTI. Nevertheless, the ability to share information with relevant entities and authorities is considered by the ISII Drafting Team as fundamental to the effectiveness of an anti-doping program and representative of the need for a holistic and collaborative approach to anti-doping. Non-analytical violations are invariably the result of investigation, often involving external stakeholders. In the absence of an established and robust procedural framework, intelligence sharing is often ad hoc and inconsistent. The WADA European I&I Capacity and Capability Project is currently fostering relationships between European based ADOs and relevant law enforcement authorities. An established and mandatory obligation to implement policies and procedures may greatly enhance the collaboration between ADOs and law enforcement. To this end, the ISII Drafting Team is considering making the implementation of policies and procedures a mandatory requirement.

Comment – experience across a broad spectrum of European ADO’s discloses a wide diversity in this area, in some cases law enforcement and regulatory agencies are prohibited from sharing intelligence by their own procedures and regulations and in others national legislation creates difficulties regarding the sharing of information between agencies. It may be possible to make the implementation of such a provision mandatory “where there is no legal or other impediment” but this would contribute to the creation of a non-standardised landscape thereby defeating the purpose of a standard.

ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).

The ISII Drafting Team considers the area of human sources to be one of the most important to the ISII and an area requiring significant consideration, review, and clarity. This matter is the subject of a specific concept below (see Concept #2).

Comment – Experience across a wide range of European ADO’s indicates that many do not have a whistleblower policy and supporting operational procedures. It is recommended that this should be mandatory, as an important whistleblower may present at any time and without warning. In this regard it is essential that ADO’s are prepared for such an eventuality. The WADA whistleblower policy is considered sufficiently adaptable to suit the needs of most ADO’s. The SHIN group will have an acute awareness of the challenges associated with the handling of covert human intelligence sources and the need for handlers to be adequately trained and experienced. In this regard it is submitted that most ADO’s will be a considerable distance from developing such capabilities and many would never reach this point. It would be difficult to see how this aspect of the intelligence gathering process might safely be made mandatory.

Anti-Doping Norway

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

SUBMITTED

Fully supported. These topics should be transferred from ISTI to ISII. Particularly the point regarding using I&I to better run our anti-doping education and preventive units, is supported.

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

We **agree** with all the mandatory requirements the Drafting Team is proposing to carry over from the ISTI Article 11: Articles 11.1, 11.2.1, 11.2.2, 11.3.1, and 11.4.1.

ADOs must (“shall”) do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1).

In relation to Article 11.2.1, we suggest that more guidance be provided as to how an organisation should capture, or receive information, to ensure an effective mechanism is in place. ADOs should be encouraged to go beyond a minimum standard to effectively receive (and proactively identify) intelligence information from the sporting community. This could include a range of options tailored to meet the different capabilities of ADOs. For example, the range of options could extend from an email address, phone line, mobile applications and a web form to an anonymous two-way communications system (similar to platforms used by WADA / ITA).

All anti-doping intelligence captured or received by an ADO should be “collated and analyzed to establish patterns, trends and relationships” that may assist the work of an ADO (as per ISTI Article 11.3.2).

We **agree** with the proposal to provide clarity around the expectations of collating and analysis to provide ADOs a better understanding of this requirement.

Other previous requirements outlined in Art. 11 of the ISTI

- **The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).**
- **ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2).**
- **ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).**

We **agree** with all the other requirements the Drafting Team is proposing to carry over from the ISTI Article 11: Articles 11.4.1, 11.4.2, 11.4.3.

The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1).

We **agree** that guidance/direction is required to help inform the effective use of intelligence across both analytical and non-analytical cases.

In relation to ISTI Article 11.4.1, we acknowledge the use of anti-doping intelligence is broader than developing a testing program and extends to drive other prevention, disruption and detection strategies especially based on risk.

Strategies may include identifying unusual patterns and in particular the athlete’s behaviour, identifying emerging doping methods, further investigating information from sources, SOPS for how to adjust testing plans based on intelligence, integrate case studies into the risk assessment, a shared platform across ADO’s for information sharing.

ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2).

We **agree** that the ISII Drafting Team, consider making the implementation of policies and procedures a mandatory requirement in relation to ISTI article 11.4.2.

We suggest that caution must be exercised to ensure that the appropriate emphasis is placed on different national and international arrangements. These should allow for flexibility, and any mandatory requirements must respect legal frameworks and support stakeholder expectations, while seeking to address the barriers to sharing information.

For example, depending on the legislative arrangements in different countries and the nature of the information, sharing with other ADOs may be as important as sharing with law enforcement, or even more so, especially where doping is not a criminal offence (e.g. Law Enforcement in Australia are indifferent to unsupported or vexatious allegations regarding low level drug use). It is also important to respect national requirements that govern the passage of information between organisations and law enforcement to avoid upsetting established protocols that already work effectively in this space. We are of the view that in some circumstances, with the assistance of WADA, it may be more beneficial to set up structures and platforms and distribute tools for sharing information amongst ADOs encouraging collaboration, rather than mandate practices that may not always be appropriate or best practice in the circumstances.

We also suggest, it would be beneficial to clarify whether a requirement to share information, is implying it be a requirement to be 'able to' share information (ie. if asked) or if it is intended to capture the 'proactive' sharing of information. We consider the proactive sharing of intelligence insights, and building awareness across ADOs (noting this can be de-identified general trends) an absolutely fundamental basis underpinning intelligence-led anti-doping. This would aid ADOs in minimising duplications of resources and efforts. Additionally, it would enhance ADOs global response, and strategies, to deter, detect and prevent the potential for athletes to share information on anti-doping methods for avoiding detection. The Drafting Team may wish to consider if it is possible to determine any types of information that must be shared (and to which organisation(s)) as opposed to other information that 'should' be shared where possible, and appropriate to do so.

ADOs should develop and implement policies and procedures to facilitate and encourage confidential sources (e.g., informants, whistleblowers) (as per ISTI Article 11.4.3).

We **agree** with this proposal in relation to ISTI Article 11.4.3,.

We are also of the view that it would be beneficial to revisit the terminology used and look to adopt more meaningful terms such as 'contact', 'source' or 'proactive reporter' in place of 'informant' and 'whistleblower' (which are terms more relevant to law enforcement).

Drug Free Sport New Zealand
Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

SUBMITTED

Transfer of Article 11 of the ISTI to the ISII (possibly replacing “shall” with “must”)

We support the concept to transfer the existing wording in the ISTI into the new ISRM due to them being foundational capabilities required.

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

Collation and analysis of anti-doping intelligence to establish patterns, trends and relationships

We support the concept to make this a mandatory requirement (currently non-mandatory) and to provide guidance.

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

We also consider that WADA has an important role to play in data analysis and should prioritise the access of data to system users to be able to interrogate and analyse data. We also consider that significant improvement is needed on WADA's provision of global data that would be useful for code signatories as the current method is significantly impaired and this is obstructing more intelligent approaches to testing.

Clarification of the effective use of intelligence regarding non-analytical cases

We support the concept and agree that intelligence can be used more broadly than in a testing programme, for example, through targeted education.

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

Mandatory requirement to have policies and procedures for sharing intelligence

We support the concept and agree that the sharing of intelligence strengthens the effectiveness of anti-doping programmes.

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

We would have concerns regarding the mandatory sharing of information with other agencies but do not consider this to be the intent behind this mandatory requirement. The ISPPPI should effectively provide for the appropriate sharing of information and having mandatory requirements should provide for suitable safeguards regarding the sharing of information.

USADA
Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

SUBMITTED

USADA generally concurs with concepts in this section, but offers comments to the following sections:

A guidance document would be useful and WADA's I&I Department should be available to buttress efforts in this area, in particular to those ADOs who do not have resources or capabilities to be compliant with this requirement.

WADA should recognize the difficulty of smaller ADOS having the capability to draft and operationalize these policies and focus more on the substance of the fight against doping (e.g., what information has been shared and with whom) rather than documenting the process. Adding documentation requirements is not as important as building relationships and support. For example, perhaps WADA I&I can develop a mechanism for ADOs to access databases, through user licenses, built for investigative purposes (intelligence gathering and processing) or sharing information with other ADOs or law enforcement.

Canadian Centre for Ethics in Sport
Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES agrees that the elements described in Concept #1 are all foundational requirements for an ADO. That said, given the varying resources available to different ADOs (financial, human resources, access to law enforcement, etc.), requirements set out in the Code must be tempered, with a Guideline developed to assist ADOs to understand how to satisfy the various requirements, including how sharing of intelligence should be conducted when considering existing privacy requirements and the varying status of ADOs as governmental or non-governmental.

Swiss Sport Integrity
Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

ADOs "should also develop and implement policies and procedures for the sharing of intelligence" (as per ISTI Article 11.4.2)
The capability of sharing information with law enforcement heavily depends on the legal basis in the respective country and therewith outside the area of influence of an ADO. Therefore, proportionality shall be warranted in case implementation of policies and procedures to share intelligence information should become mandatory.

Japan Anti Doping Agency
YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

- 1.1 AgreeLevel of capacity would be different in each ADO, and different level of capacity should be accepted.
- 1.2 Basically agreeWe all should understand that the available sources are different in each ADO and there are sources that ADO cannot access to. Therefore, we all need to understand that "all available sources" are different in each ADO and it is acceptable if the ADO is utilizing their "available sources" which might be less than the other ADO.
- 1.3 Agree.This is very important point and appreciate for establishing a better guidance.It would be nice to have a recommendation list or check list of policies and procedures and example templates in the Guideline or ADEL.
- 1.4 Agree.It would be nice to have templates or example of how to assess intelligence in the Guideline or ADEL.
- 1.5 We welcome that you provide clarity around the expectations of collecting and analyses, including appropriate human resources.However, not all ADO is able to employ staff with appropriate capacity.
- 1.6 It is important to use intelligence but typically do not know how to use them. Therefore, we welcome providing direction on the effective use of intelligence regarding non-analytical cases will be considered.
- 1.7 We understand the importance of implementing the policy and procedure. However, depending on a country, it is difficult to have a policy or might take very very long time to create the policy. It might be impossible to have collaboration with a Law enforcement agency depending on a country. Therefore, this should not be the mandatory requirement. Also, it is unclear what do you mean by collaboration?Providing law enforcement illegal information is considered as collaboration?The level of collaboration would be different in each country.Who is the law enforcement? Police? Custom? Both? or any other authority?If you make this mandatory this point, there will be so many non-complaint ADOs in the world.We propose that keep this as recommendation at this version, and consider to make mandatory next version or later version.Meanwhile, WADA, Interpol and the World Customs Organization should communicate with each country's relevant authorities using their route to make them understand the necessity to collaborate with ADOs.It is impossible to break the wall of law enforcement by a NADO.Making mandatory requirement for ADO/NADO does not make any difference because a NADO does not have power over governmental authorities.
- 1.8 See comments for Concept 2

CHINADA
MUQING LIU, Coordinator of Legal Affairs Department (CHINA)
NADO - NADO

SUBMITTED

On strengthening the government support for investigations

The importance of investigations in anti-doping activities is constantly increasing, but many ADOs still encounter a lack of legal basis and effective means to conduct investigations. Therefore, CHINADA suggests that

within the appropriate section of Code Article 22 (Involvement of Government), or if possible, it should be explicitly specified in ISII that each government is expected to provide ADOs with legal and policy support and substantive assistance in conducting investigations. This includes providing intelligence information and judicial assistance in the fight against serious illegal activities such as smuggling, illegal manufacture, trafficking of prohibited substances, and administration of prohibited substances to athletes, etc., cooperating with ADOs to conduct further investigations, and if necessary, pursuing criminal liabilities in accordance with the law to enhance deterrence and sanctions for serious ADRVs (ADRVs). Meanwhile, it is suggested to include information sharing and law enforcement cooperation between ADOs and governments during the development of the International Standard for Intelligence and Investigations.

Dopingautoriteit

SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

Recommendation: For compliance purposes it is important that the wording in the ISSI remains 'may be available'.

2. "ADOs must ("shall") do everything in their power to ensure that they are able to capture or receive anti-doping intelligence from all available sources (as per ISTI Article 11.2.1)."

Article 11.2.1 ISTI refers to "anti-doping intelligence from all available sources, including, but not limited to (...) law enforcement, other regulatory and disciplinary bodies". Depending on national legislation, information from these sources may not be available to the NADO.

Recommendation: For compliance purposes it is important that the wording in the ISSI will read 'may be available'.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Denmark)
NADO - NADO

Supported

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

-Suggest enhancing collation and analysis guidance.

-Leverage technology for efficient data processing, and consider a centralized platform for collaborative intelligence sharing.

-Allocate budget for ADOs' training on intelligence assessment.

-Propose a system for periodic audits to ensure compliance.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

UKAD supports the ISII Drafting Team in its choice to retain certain concepts as set out in Article 11 of the ISTI as a guide for establishing the key areas which it intends to include in the ISII. In relation to concept one, UKAD provides

specific comment on the following areas:

‘ADOs must (“shall”) have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2)’

Consideration should be paid to developing specific guidance in relation to the use and conduct of Confidential/Human Intelligence sources linking to the published WADA Guidelines for Human Sources Handling.

‘ADOs must (“shall”) ensure that they are able to assess all anti-doping intelligence upon receipt for “relevance, reliability, and accuracy” (as per ISTI Article 11.3.1)’

This is a further area where specific guidance could be provided to ensure continuity of application and interpretation where information sharing takes place between ADOs.

‘All anti-doping intelligence captured or received by an ADO should be “collated and analyzed to establish patterns, trends and relationships” that may assist the work of an ADO (as per ISTI Article 11.3.2)’

This is a very broad and subjective requirement. Levels of analysis and subsequent findings /recommendations will depend upon the resource, capability and experience of an ADO. UKAD is therefore supportive that further clarity is given as to what constitutes sufficient ‘collation’ and ‘analysis’.

‘The ISTI details the purposes for which anti-doping intelligence must (“shall”) be used (e.g., developing and revising a testing plan) (as per ISTI Article 11.4.1)’

UKAD is supportive that direction and specific guidance/consideration is within the ISII is given on the effective use of intelligence to pursue non-analytical ADRVs.

‘ADOs “should also develop and implement policies and procedures for the sharing of intelligence” (as per ISTI Article 11.4.2)’

UKAD is supportive of making this a mandatory requirement, especially considering that athletes at the elite levels are increasingly operating across jurisdictions/borders.

Caribbean Regional Anti-Doping Organization

Sasha Sutherland, Executive Director (Barbados)
NADO - RADO

SUBMITTED

The drafting team acknowledges that aspects of the ISII might be unfavourable to smaller and less resourced ADOs yet the team still proposes to make mandatory the implementation of policies and procedures for sharing intelligence (Art. 11.4.2). Acknowledging the challenges that obtain for smaller and less resourced ADOs is only the first step. Understanding the impacts of making this mandatory for ADOs that do not have the human resources, frameworks nor general budget to hire experts to execute must be considered, with a solution to build capacity in that regard BEFORE making this article mandatory. To do otherwise is to lead smaller and less resourced ADOs down a narrow road to non-compliance. Highlighting the capacity building and capability project work within European ADOs is great. The question becomes whether there is the same capacity building and relationship fostering in the other jurisdictions that will likely be held accountable to the proposed mandatory requirements. If the answer is no, why this consideration?

International Testing Agency

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

SUBMITTED

We agree with all aspects of this review.

Concept #2 – Human Source Management, Use, and Oversight (19)

Sport NZ

SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.

Sport NZ welcomes WADA promulgation of guidance for ADOs on the treatment of human sources of intelligence.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

Supported

The impact on national legislation should be assessed in this context.

COCOM

SUBMITTED

Stephanie Sirjacobs, Legal adviser (Belgium)
NADO - NADO

Il est essentiel de ne pas perdre de vue que les ONAD ne sont pas des agences de renseignement ou la police.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

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

No comments

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

NADA Comment : Agree It is pointed out that ATFs also shall lead to further investigations

NADA Austria

SUBMITTED

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

Consideration should be paid to develop specific guidance in relation to the use and conduct of Confidential/Human Intelligence sources and the implementation of technical measures for protecting confidentiality according to **Concept #2** of WADA.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

We **agree** it is imperative that significant clarity and guidance is provided to support the handling of human sources.

To simultaneously address this concept and Concept #1 -**ADOs must (“shall”) have policies and procedures in place to ensure that anti-doping intelligence captured or received is handled securely and confidentially, that sources of intelligence are protected for these purposes (as per ISTI Article 11.2.2).**

Where ADOs are able to perform this function, minimum standards should be applied. It would also be useful to provide 'good practice guidance' for those ADOs that work more closely with other ADOs and do not have a strong connection to law enforcement/intelligence agencies.

Setting a baseline minimum standard would promote 'good practice' such as arrangements to protect the safety and welfare of sources, and practices to reduce the risk of corruption. For example:

- source tasking protocols,
- requirement to document source agreements.
- steps to ensure sources know not to engage in any illegal activity.
- a registry that is secure.
- source verification protocols.
- utilisation of information protocols – i.e. for anti-doping purposes only.
- auditing and reviews of human source management practices and security measures.
- measures to maintain confidentiality. i.e., restricted access.

Best Practice Guidelines may include the following to support a minimum standard and enhance the process for management of anti-doping intelligence:

- Implementing continuous improvement programs including the most up to date methods
- Implementing risk assessments and mitigations for things like security breaches.
- How best to foster whistleblowing principles.
- Ethical and trauma informed decision-making best practices.
- How to foster collaboration across different ADOs and potentially law enforcement/intelligence agencies.
- Incorporating elements of human sources and Intelligence functions into Education programs and tools.

The drafting team may also wish to investigate how to best monitor and ensure practices are compliant and effective through regular audits.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

Fully supported. Clarity and guidance needed. Recommendations from SHIN should be included.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

We first refer to our general remarks on this Standard, made for concept 1 and in the item "other comments/suggestions".

Without prejudice to these general remarks :

2) Human Source Management, Use and Oversight :

The ISII Drafting Team acknowledges the importance of human sources, as well as the potential risks posed by a deficient source handling program (e.g., policies, procedures). The ISII Drafting Team proposes to provide significant clarity and guidance around this topic.

-> We agree that this is an important topic.

-> However, we would like to refer to our comments concerning article 11.4.2 of the ISTI.

-> Many ADOs already have rules and procedures in this area.

-> We are in favor of better guidance, but without additional requirements for signatories.

-> This from a general perspective, to which the Agency committed itself at the start of the process, of flexibility but also of proportionality, and taking into account the limited resources of the signatories, which have already been increased recently.

USADA

SUBMITTED

Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

As a first step, the Code needs to permit the use of confidential informants, one of the most critical tools to uncovering doping, with WADA's agreement. It is difficult to imagine many human sources of information who would not also be involved directly or indirectly in prohibited activity and subject to potential violations. For example, two of the greatest whistleblowers in our time, Yulia Stepanova and Grigory Rodchenkov, all violated provisions of the Code.

Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

The CCES believes that the management of human sources will pose a challenge to many ADOs given the various human resource and financial limitations that many face. While the CCES agrees that the Standard should include reference to, and basic requirements around the management of human sources, we feel that fewer requirements within the Standard, with additional elements outlined in a guideline would be better.

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

We support the concept that human source management be reviewed.

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

We consider that source confidentiality is imperative, where required and appropriate, due to the vulnerable positions that informants can sometimes be put in because of providing information. We also support the input from SHIN on this matter.

Sport Ireland
Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

Concept #2 – Human Source Management, Use, and Oversight

The ISII Drafting Team acknowledges the importance of human sources, as well as the potential risks posed by a deficient source handling program (e.g., policies, procedures). This area has remained largely untouched by the ISTI. The ISII Drafting Team proposes to provide significant clarity and guidance around this topic. The WADA Sport Human Intelligence Network (“SHIN”) has already expressed the importance of this issue to the ISII Drafting Team on this topic. This concept is linked in many ways to Concept #4 below.

Comment – As above.

Japan Anti Doping Agency
YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We welcome for providing significant clarity and guidance around this topic because many ADOs do not have knowledge and experiences. However, since we do not know the detail of guidance at this point, we hope they would not be the mandatory requirement. Just to the last, it is very helpful to have guidance on how to process and necessary policies to make.

Doping autoriteit
Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes these recommendations and awaits the proposals, but also warns against further obligations in relation to compliance issues.

Anti Doping Danmark
Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

Supported

NADA India
NADA India, NADO (India)
NADO - NADO

SUBMITTED

-Recognizing human sources' importance, emphasize thorough policies on source registration, management, and use.

- Propose guidelines for protecting whistleblowers and informants.
- Recommend leveraging secure, technology-driven platforms for confidential communication.
- Allocate budget for specialized training on human source management and conduct regular audits on compliance.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

UKAD is supportive of clarity and guidance within the ISII on this topic. This is a complex area of intelligence gathering and therefore consideration could be given to best practice/minimum standards. However, there needs to be some flexibility to accommodate the applicable domestic laws and legislation that different ADOs adhere to. Furthermore, resource/capacity and capability issues that varying ADOs may face should also be considered.

International Testing Agency

SUBMITTED

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

We agree with all aspects of this review.

Concept #3 – Investigations (23)

Sport NZ

SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.

Sport NZ supports the proposals outlined.

Sport NZ notes that the recent Integrity Sport and Recreation Act 2023 in New Zealand includes provision for domestic anti-doping rules (which implement the Code in New Zealand) to include requirements to provide information and cooperate with an anti-doping investigation coupled with sanctions for failure to cooperate (see section 19(4)).

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

Supported

Clarifications should be brought to the notion of "investigation" (e.g. start and end terms, access to information, type of actions)

COCOM

SUBMITTED

Stephanie Sirjacobs, Legal adviser (Belgium)
NADO - NADO

Sur la fin du concept : à partir de quand ça a vraiment une importance d'être partagé, parce que si ça aboutit à rien ... De simples recherches et petites investigations ne devraient pas être considérées comme devant être rapportées, sinon l'ONAD n'osera plus rien faire surtout si c'est pour se retrouver ensuite confrontée en appel... + risque d'allourdir vachement et inutilement la tâche des ONADS en matière d'enquête...

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

SUBMITTED

No comments

NADA
NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

SUBMITTED

An ADO must (“shall”) ensure that they are able to investigate matters “confidentially and effectively” (as per ISTI Article 12.2.1).

NADA Comment: partly agree

- The term “effectively” is too broad and indefinite: At what point was/is an investigation “effective”? May lead to further compliance issues. Maybe revise wording?

An ADO must (“shall”) gather, record, and fully document all relevant information “as soon as possible”, to develop “admissible and reliable evidence”. Moreover, an ADO must (“shall”) conduct all investigations “fairly, objectively and impartially” (as per ISTI Article 12.2.2).

NADA Comment: agree

An ADO should make use of “all investigative resources reasonably available” to it to conduct its investigation (as per ISTI Article 12.2.3).

NADA Comment: agree

Athletes and ASPs who fail to comply with the Code Article 21 requirement to “cooperate” with investigation should be subject to “disciplinary action” under the applicable rules of their sport, and where the conducted amounts to subversion of the investigation process, an applicable Code Article 2 anti-doping rule violation (e.g., tampering) should be charged (as per ISTI Article 12.2.4).

NADA Comment: agree

An ADO must (“shall”) come to a decision “efficiently and without undue delay” as to whether proceedings should be commenced against an athlete or other person (as per ISTI Article 12.3.1).

NADA Comment: agree

An ADO shall comply with the International Standard for Results Management for any proceedings commenced (as per ISTI Article 12.3.2).

NADA Comment: agree

Where a decision is made not to commence proceeding against an athlete or other person, then this decision shall be communicated to all relevant parties (e.g., WADA, applicable International or National Federation), and an ADO must (“shall”) provide that relevant party all necessary information to allow that entity to determine whether to appeal against the decision (as per ISII Article 12.3.3).

NADA Comment: partly agree

- It is further unclear at what stage a “final” decision is made or at what point an “investigation” is officially an “investigation”:
- Even analyzed information may not lead to further proceedings. It is suggested to include “stages of proceedings” in relation to the ISRM Article 5.4 (decision not to move forward).
- What does “appeal the decision” mean: takeover the investigation? It seems not possible to make an ADO investigate further into a matter without anyone externally overseeing the investigation.
- What exactly is ISII Article 12.3.3?

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our general remarks on this Standard, made for concept 1 and in the item "other comments/suggestions".

Without prejudice to these general remarks :

3) Investigations :

About different concepts provided for in article 12 of the ISTI:

- The objective of ISTI Article 12 was to establish standards for the efficient and effective conduct of investigations into relevant matters (e.g., AAFs, adverse passport findings, non-analytical violations, involvement of complicit athlete support personnel (ASP) (as per ISTI Article 12.1). Moreover, the ISTI detailed that the purpose of an investigation was to find all inculpatory and exculpatory evidence, including evidence of a breach of the Code or applicable International Standard (as per ISTI Article 12.1.1).

The ISII Drafting team agrees that setting standards for the “efficient and effective conduct of investigation” are very important, particularly given that in certain instances the Code mandates the conducting of an investigation. The ISII Drafting team therefore proposes to provide clarity on this issue, including on any previous potential conflict between the ISTI and the operational practice of some ADOs (e.g., ISTI Article 12.1.1 stipulates that the purposes of an investigation is to “rule out” a person’s involvement in a violation; however, some ADOs commence a results management process without ever interviewing the athlete, or investigating an athlete’s claim of defense).

-> In relation to this point, we naturally completely agree that the rights of defense of athletes are essential and must not be diminished compared to those currently provided for in the Code and the International Standards.

-> Thus, the provisions provided for in this regard in Article 12 of the ISTI must be maintained, so that investigations are carried out incriminating but also exculpatory and that the aim of an investigation is also to exclude the involvement of 'a person in a violation.

-> In accordance with these principles and these provisions, it seems logical and natural to us that any results management procedure allows the rights and explanations of athletes to be duly taken into account, including the right to be heard. These rights are implemented in Belgium, whether in practice or in the applicable rules.

-> The current Article 12 of the ISTI already provides for and appears to meet these essential requirements.

-> Better guidance or greater clarity could nevertheless be provided on the subject, in particular to ensure that investigations are carried out incriminating and exonerating, and that they also aim to exclude the involvement of a person in a violation and that any results management procedure must take into account the defenses and rights of athletes and allow them to be heard.

- An ADO must ("shall") ensure that they are able to investigate matters "confidentially and effectively" (as per ISTI Article 12.2.1).

The ISII Drafting team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

-> We naturally agree that this remains a mandatory requirement.

-> We refer to our general remark regarding the prior impact assessment and the explanation to be provided regarding the need to adopt an additional International Standard.

- An ADO must ("shall") gather, record, and fully document all relevant information "as soon as possible", to develop "admissible and reliable evidence". Moreover, and ADO must ("shall") conduct all investigations "fairly, objectively and impartially" (as per ISTI Article 12.2.2).

The ISII Drafting team considers this to be a foundational capability and capacity, and it should remain a mandatory requirement. The ISII Drafting team proposes to provide clarity around the notions of a fair, objective, and impartial investigation, as well as the means by which an ADO should store information.

-> We naturally agree that this remains a mandatory requirement.

-> We however refer to our general remark regarding the prior impact assessment and the explanation to be provided regarding the need to adopt an additional International Standard.

-> We refer to our previous comments regarding Article 12.1.1 of the ISTI.

-> Issues relating to athletes' rights and fair, impartial, prosecution and exculpatory investigations are essential.

-> The provisions to this effect of Article 12.2.2, relating to investigations carried out "fairly, objectively and impartially" must therefore be maintained.

-> For the rights of athletes and in order to generally guarantee their right to a fair procedure, better guidance or more clarity could be provided regarding the notions of fair, objective and impartial investigations.

-> Regarding the means by which an ADO should store information, guidance or guidelines without additional requirements could be provided.

- An ADO should make use of "all investigative resources reasonably available" to it to conduct its investigation (as per ISTI Article 12.2.3).

The ISII Drafting team considers this an important area of the ISTI and proposes to carry this over to the ISII while providing enhanced clarity and firm guidance around the effective use of resources (e.g., law enforcement collaboration, Anti-Doping Intelligence and Investigation Network (ADIIN), collaboration with other ADOs).

-> We share the observation that this is an important area of ??ISTI, and must remain so.

-> However, we refer to our general remark on the prior impact assessment and the explanation to be provided regarding the possible need to adopt a new Standard.

-> Agree to provide further guidance on this point but in a flexible and proportionate way, without adding new requirements and without increasing the resources of the signatories.

-> Without prejudice to the above principles, also take into account real and necessary needs (proportionality) as well as applicable laws, in particular in terms of confidentiality with regard to cooperation with law enforcement.

- Athletes and ASP who fail to comply with the Code Article 21 requirement to "cooperate" with investigation should be subject to "disciplinary action" under the applicable rules of their sport, and where the conducted amounts to subversion of the investigation process, an applicable Code article 2 anti-doping rule violation (e.g., tampering)

should be charged (as per ISI Article 12.2.4).

The ISII Drafting Team considers this area of cooperation (as per Code Article 21) to be one of the more ambiguous issues within the ISTI and Code. For example, the terms “cooperate”, and “subversion” are not defined by the Code. Consequently, the ISII Drafting team proposes to consult with the Code Drafting team in an endeavor to provide greater clarity around issues of this kind. ADIIN has expressed significant interest in improving the workability of this area. The ISII Drafting team will also engage with the Code Drafting team on the viability of including within the Code a violation for not “cooperating” with an ADO investigation.

-> We would agree to clarify this notion, perhaps by providing in the Standard that a failure to cooperate during an investigation gives rise to the opening of an investigation into an allegation of violation of the anti-doping rule referred to in section 2.5 of the Code (falsification);

-> Our internal rules provide for this but this could be specified in the Standard, for greater clarity and efficiency;

-> If necessary and necessary we would not be opposed to a failure to cooperate with an investigation being considered as a new specific ADRV.

- An ADO must (“shall”) come to a decision “efficiently and without undue delay” as to whether proceedings should be commenced against an athlete or other person (as per ISTI Article 12.3.1).

The ISII Drafting team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

-> We agree that this remains a mandatory requirement.

-> However, we refer to our general remark on the prior impact assessment and the explanation to be provided regarding the possible need to adopt a new Standard.

- An ADO shall comply with the International Standard for Results Management for any proceedings commenced (as per ISTI Article 12.3.2).

The ISII Drafting team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

-> We agree that this remains a mandatory requirement.

-> However, we refer to our general remark on the prior impact assessment and the explanation to be provided regarding the possible need to adopt a new Standard.

- Where a decision is made not to commence proceedings against an athlete or other person, then this decision shall be communicated to all relevant parties (e.g., WADA, applicable International or National Federation), and an ADO must (“shall”) provide that relevant party all necessary information to allow that entity to determine whether to appeal against the decision (as per ISII Article 12.3.3).

The ISII Drafting team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

-> We agree that this remains a mandatory requirement.

-> However, we refer to our general remark on the prior impact assessment and the explanation to be provided regarding the possible need to adopt a new Standard.

NADA Austria

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

SUBMITTED

According to **Concept #3** the establishment of standards for the efficient and effective conduct of investigations into relevant matters is expressly welcomed by us. But the terms “effectively”, and the later wordings “fair”, “objective” and “impartial” are too broad and indefinite. The wordings should be reconsidered, and further clarity is required. We welcome this proposal but see a need for best practice, minimum standards, and trainings by WADA in this field. However, there needs to be some flexibility to accommodate the applicable domestic laws and legislation that different ADOs adhere to. ADOs are obliged to inform all relevant parties if a decision is made not to commence proceedings. On our perspective it is unclear at what stage a “final” decision is made or at what point an “investigation” is officially an “investigation”. We would like to see much more clarity and certainty in dealing with this obligation.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

It is necessary to establish what is meant by “cooperate” and “subversion” in art. 20 and 21. This is fully supported. What if, for example, an athlete refuses to say anything related to his case, or we establish that somebody is lying?

While we are positive towards including incentives to cooperate, this should not be done on the expense of the right to avoid self-incrimination / right to remain silent, which should also apply to investigations of ADRVs.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

The objective of ISTI Article 12 was to establish standards for the efficient and effective conduct of investigations into relevant matters (e.g., AAFs, adverse passport findings, non-analytical violations, involvement of complicit athlete support personnel (ASP)) (as per ISTI Article 12.1). Moreover, the ISTI detailed that the purpose of an investigation was to find all inculpatory and exculpatory evidence, including evidence of a breach of the Code or applicable International Standard (as per ISTI Article 12.1.1).

- We **agree** that setting standards for the 'efficient and effective conduct of investigations' is vital to the ISII and that clarity is required to ensure that operational practices are consistent and harmonised across ADOs and are revised to promote a clear and effective approach.
- It may be useful to explain the meaning of 'an efficient and effective program' and outline the indicators of success. The definition may allude to efficiency being adhering to predetermined timelines and deadlines, while effectiveness may incorporate things like fairness, impartiality and objectivity are maintained (as per ISTI Article 12.2.1), but further clarification would be beneficial.
- Key indicators for success may include quality metrics such as measuring defects for meeting deadlines (in particular for decision making), metrics for measuring cooperation or non-cooperation, instances for utilisation of external resources like law enforcement bodies, metrics for obtaining and managing information, instances for the scrutinisation of evidence, feedback outcomes post the process, successful implementation of corrective actions for continuous improvement.

An ADO must (“shall”) ensure that they are able to investigate matters “confidentially and effectively” (as per ISTI Article 12.2.1).

- We **agree** this is a mandatory requirement for inclusion in the ISII. All investigations should be conducted confidentially, fairly and impartially, observing the principles of natural justice.

An ADO must (“shall”) gather, record, and fully document all relevant information “as soon as possible”, to develop “admissible and reliable evidence”. Moreover, an ADO must (“shall”) conduct all investigations “fairly, objectively and impartially” (as per ISTI Article 12.2.2).

- We **agree** this is a mandatory requirement for inclusion in the ISII.
- We also **agree** with the proposal to provide clarity around the notions of a fair, objective and impartial investigation, as well as the means by which an ADO should store information.

An ADO should make use of “all investigative resources reasonably available” to it to conduct its investigation (as per ISTI Article 12.2.3).

- We **agree** with the inclusion of this provision in the ISII and with the proposal to provide clarity and guidance around the effective use of resources (especially in relation to the use of tools for collaboration).

Athletes and ASPs who fail to comply with the Code Article 21 requirement to “cooperate” with investigation should be subject to “disciplinary action” under the applicable rules of their sport, and where the conducted amounts to subversion of the investigation process, an applicable Code Article 2 anti-doping rule violation (e.g., tampering) should be charged (as per ISTI Article 12.2.4).

- We **agree** that greater clarity and explanation is required to improve the understanding, implementation and workability of this provision and that the key actions and behaviours need to be defined (e.g. cooperate and subvert).
- We also **support** further investigation of a possible additional violation for 'not cooperating with an investigation'.

An ADO must (“shall”) come to a decision “efficiently and without undue delay” as to whether proceedings should be commenced against an athlete or other person (as per ISTI Article 12.3.1).

- We **agree** this is a mandatory requirement for inclusion in the ISII.
- The inclusion of a minimum standard and potential implementation of success indicators should assist to support mandating and monitoring compliance. As previously addressed against the first point, of Concept #3.

An ADO shall comply with the International Standard for Results Management for any proceedings commenced (as per ISTI Article 12.3.2).

- We **agree** this is a mandatory requirement for inclusion in the ISII.

Where a decision is made not to commence proceeding against an athlete or other person, then this decision shall be communicated to all relevant parties (e.g., WADA, applicable International or National Federation), and an ADO must (“shall”) provide that relevant party all necessary information to allow that entity to determine whether to appeal against the decision (as per ISII Article 12.3.3).

- We **agree** this is a mandatory requirement for inclusion in the ISII.

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES agrees with the elements outline in Concept #3.

Clarification on the efficient and effective conduct of investigations**We support the concept**

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

We have some concern regarding the reference to the investigation of the athlete's claim of defence to ensure that the evidential onus is not unintentionally shifted to the ADO.

Clarification of a fair, objective, and impartial investigation**We support the concept**

However, consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

Clarification and firm guidance around the effective use of resources (e.g., law enforcement, ADIIN, collaboration with other ADOs)

Consideration must be given to the applicability of these mandatory requirements by differently resourced ADOs. Many ADOs are struggling with existing Code requirements and will not be able to properly fulfil additional ISII requirements.

The continuation of GLDF type programmes will assist less-well-resourced ADOs with this capability.

Specifically we have some concern regarding firm guidelines which may not be achievable in some countries (e.g., collaboration with law enforcement) which is out of the control of ADOs.

Disciplinary action for athletes / ASP who don't cooperate with investigations

We support the concept regarding clarification around the consequences for no cooperation e.g., a failure to provide documentation pursuant to Article 7 amounts to subversion, as there are currently limited consequences where the lack of co-operation falls short of tampering, for example.

Consideration should also be given to the consequences where a national sporting organisation does not cooperate / comply with documentation requests etc.

Concept #3 – Investigations As previously mentioned, much of the ISII content will be founded on the previous requirements as outlined in the ISTI. Accordingly, as it relates to investigations, the ISII Drafting Team has chosen to retain certain concepts set forth at ISTI Article 12 as a guide for establishing the key areas which it intends to include in the ISII. Where applicable, the ISII Drafting Team has outlined the reasoning for the inclusion of any mandatory requirements.

The objective of ISTI Article 12 was to establish standards for the efficient and effective conduct of investigations into relevant matters (e.g., AAFs, adverse passport findings, non-analytical violations, involvement of complicit athlete support personnel (ASP)) (as per ISTI Article 12.1). Moreover, the ISTI detailed that the purpose of an investigation was to find all inculpatory and exculpatory evidence, including evidence of a breach of the Code or applicable International Standard (as per ISTI Article 12.1.1).

The ISII Drafting Team agrees that setting standards for the “efficient and effective conduct of investigation” are vital to the ISII, particularly given that in certain instances the Code mandates the conducting of an investigation. The ISII Drafting Team therefore proposes to provide clarity on this issue, including on any previous potential conflict between the ISTI and the operational practice of some ADOs (e.g., ISTI Article 12.1.1 stipulates that the purpose of an investigation is to “rule out” a person’s involvement in a violation; however, some ADOs commence a results management process without ever interviewing the athlete, or investigating an athlete’s claim of defense).

Comment – It is agreed that the purpose of conducting an investigation should be clarified in the broadest possible sense as this concept is not well understood among some ADO’s.

An ADO must (“shall”) ensure that they are able to investigate matters “confidentially and effectively” (as per ISTI Article 12.2.1).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

Comment – This is an obvious requirement.

An ADO must (“shall”) gather, record, and fully document all relevant information “as soon as possible”, to develop “admissible and reliable evidence”. Moreover, an ADO must (“shall”) conduct all investigations “fairly, objectively and impartially” (as per ISTI Article 12.2.2).

The ISII Drafting Team considers this to be a foundational capability and capacity, and it should remain a mandatory requirement in the ISII. The ISII Drafting Team proposes to provide clarity around the notions of a fair, objective, and impartial investigation, as well as the means by which an ADO should store information.

Comment – It is agreed that this is an essential requirement.

An ADO should make use of “all investigative resources reasonably available” to it to conduct its investigation (as per ISTI Article 12.2.3).

The ISII Drafting Team considers this an important area of the ISTI and proposes to carry this over to the ISII while providing enhanced clarity and firm guidance around the effective use of resources (e.g., law enforcement collaboration, Anti-Doping Intelligence and Investigations Network (ADIIN), collaboration with other ADOs).

Comment – This is agreed, it is an essential principle of any investigation that all available resources should be fully exploited.

Athletes and ASPs who fail to comply with the Code Article 21 requirement to “cooperate” with investigation should be subject to “disciplinary action” under the applicable rules of their sport, and where the conducted amounts to subversion of the investigation process, an applicable Code Article 2 anti-doping rule violation (e.g., tampering) should be charged (as per ISTI Article 12.2.4).

The ISII Drafting Team considers this the area of cooperation (as per Code Article 21) to be one of the more ambiguous issues within the ISTI and Code. For example, the terms “cooperate”, and “subversion” are not defined by the Code. Consequently, the ISII Drafting Team proposes to consult with the Code Drafting Team in an

endeavor to provide greater clarity around issues of this kind. ADIIN has expressed significant interest in improving the workability of this area. The ISII Drafting Team will also engage with the Code Drafting Team on the viability of including within the Code a violation for not “cooperating” with an ADO investigation.

Comment – in a purely legalistic context the difficulty associated with the terms “cooperation” and “subversion” are acknowledged. Insofar as the term “cooperation” is concerned, it would appear that there should not be any scope for subjective interpretation. It may be preferable if the requirements applicable to athletes and support personnel were clearly and comprehensively set out and that the relevant offence would consist of a failure or refusal to comply with the relevant requirement. It may also be difficult to apply a legal definition to the term “subversion” and it may perhaps be more efficient to refer to “knowingly and wilfully committing any act with the intention of impeding the conduct of an investigation”.

An ADO must (“shall”) come to a decision “efficiently and without undue delay” as to whether proceedings should be commenced against an athlete or other person (as per ISTI Article 12.3.1).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

Comment – Agreed, there are a multiplicity of reasons why a decision should always, within reason, be expedited.

An ADO shall comply with the International Standard for Results Management for any proceedings commenced (as per ISTI Article 12.3.2).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

Comment – Agreed, established standards must be complied with.

Where a decision is made not to commence proceeding against an athlete or other person, then this decision shall be communicated to all relevant parties (e.g., WADA, applicable International or National Federation), and an ADO must (“shall”) provide that relevant party all necessary information to allow that entity to determine whether to appeal against the decision (as per ISII Article 12.3.3).

The ISII Drafting Team considers this to be a foundational capability and it should remain a mandatory requirement in the ISII.

Comment – Agreed, this is in accordance with the principles of natural justice.

USADA
Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

SUBMITTED

This is an important component of ADO investigations, but the effectiveness of such a provision will depend almost entirely on the capacity and sophistication of the I&I department, if such a department even exists.

WADA could promote investigations by being more proactive in promoting national legislation as a resource to hold those often outside the purview of the Code—but most often orchestrating doping conspiracies—accountable and promote information sharing, e.g. the Rodchenkov Anti-Doping Act.

A strict definition of cooperation and subversion would be very helpful, recognizing the right not to self-incriminate when there is the potential for criminal liability is inherent in many Code signatory nations. A mechanism within the Code for enforcing this requirement by ADOs is equally important.

Dopingautoriteit

SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

Recommendation: Doping Authority Netherlands welcomes these recommendations and awaits the proposals, but also warns against further obligations in relation to compliance issues.

Japan Anti Doping Agency

SUBMITTED

YUICHI NONOMURA, Result Management (??)
NADO - NADO

3-1 Agree that it is not clear what exactly we need to do in the ISTI. So we welcome to set standards for the “efficient and effective conduct of investigation”. On the other hand, if there would be many standards and if those becomes mandatory, the ADO without enough resources, including human and budget, would not be able to comply, so we need to consider well what should be mandatory and what should not be. Also please think about countries that has difficulty with the legal structure to work with law enforcement. It is helpful to know what would be the priority to do/to start from. or if you could guide us steps to take. It is difficult to do all at once but if we could know steps to take, that would be helpful to start and level up.

3-2 We understand that it is important to ensure that they are able to investigate matters “confidentially and effectively” but this is not clear what we exactly need to do. It would be nice if you could clarify around this.

3-3 We understand that this is fundamental capability and capacity and should remain as a mandatory requirement. Also we welcome about providing clarity around the notions of a fair, objective, and impartial investigation, as well as the means by which an ADO should store information.

3-4 we welcome on enhanced clarity and firm guidance around the effective use of resources. However, the law enforcement should not be the prerequisite but it should be start with what an ADO can do independently, with information they have within their organization, and within our ADO community, including collaboration with other ADOs.

3-5 Agree

3-6 Agree But this seems like the RM process? I & I process could be also a part of RM, and it is already written in ISTI, it could be written in ISII but we wonder why it is here. Maybe by explaining in detail might be better to understand.

3-7 This says ADO shall comply with the ISRM, so we agree.

3-8 Agree

Swiss Sport Integrity

SUBMITTED

Ernst König, CEO (Switzerland)
NADO - NADO

Whereas the necessity of an investigation is not questioned, the ISII should in no case overregulate how an investigation has to be performed (ahead of a Results Management process). It has to be noted that the investigation and the results management process overlap quite often (e.g., can an athlete be interviewed after the results management process has been initiated). Rather than regulating the process, the provisions in the ISII should empower the I&I departments to have the opportunity to lead an Interview, or, more generally, to be involved at a very early stage.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

Supported

NADA India

SUBMITTED

NADA India, NADO (India)
NADO - NADO

- For efficient investigations, integrate modern investigative technologies.
- Propose standardized definitions for terms like "cooperate" and "subversion."
- Advocate for a unified platform facilitating collaboration between ADOs and law enforcement.
- Suggest budget allocation for training investigators on fair, objective, and impartial practices.
- Encourage the adoption of resource-effective investigation strategies.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

UKAD supports the ISII Drafting Team in its choice to retain certain concepts as set out in Article 12 of the ISTI as a guide for establishing the key areas which it intends to include in the ISII. In relation to concept three, UKAD provides specific comment on the following areas:

‘An ADO must (“shall”) gather, record, and fully document all relevant information “as soon as possible”, to develop “admissible and reliable evidence”. Moreover, an ADO must (“shall”) conduct all investigations “fairly, objectively and impartially” (as per ISTI Article 12.2.2)’

UKAD is supportive of this mandatory requirement remaining and supports further clarity being provided on the notions of a fair, objective and impartial investigation.

‘An ADO should make use of “all investigative resources reasonably available” to it to conduct its investigation (as per ISTI Article 12.2.3)’

UKAD is supportive of carrying over this area to the ISII and believes that further clarity and guidance would be useful. Consideration should be given to the fact that what is construed as reasonable will be dependent upon capacity/capability. The WADA EU project and GLDF delivery could be a vehicle for this.

‘Athletes and ASPs who fail to comply with the Code Article 21 requirement to “cooperate” with investigation should be subject to “disciplinary action” under the applicable rules of their sport, and where the conducted amounts to subversion of the investigation process, an applicable Code Article 2 anti-doping rule violation (e.g., tampering) should be charged (as per ISTI Article 12.2.4)’

UKAD agrees with the ISII Drafting Team approach on this topic with the following specific comments:

■

Clear definitions are required, in particular in relation to ‘subversion’. UKAD recommends that such a definition should include (for e.g.) ‘...failure to make themselves available to assist an investigation by...not attending an interview...refusing to hand over electronic devices...refusing to allow access to financial material’

■

The ISII Drafting team should consider lobbying the Code Drafting Team to introduce a new ADRV for failure to cooperate with/obstructing an ADO investigation without compelling justification. This would enable the ADO to impose a provisional suspension on the athlete/ASP until such time as they cooperate, leading to, if the person continues to fail to cooperate or obstruct the investigation, the hearing panel sanctioning the athlete or ASP on that charge alone regardless of the outcome of the investigation. Please note that UKAD has included the proposal to address ‘failure to cooperate with an investigation’ in its WAD Code submission.

Caribbean Regional Anti-Doping Organization

SUBMITTED

Sasha Sutherland, Executive Director (Barbados)
NADO - RADO

Failing to comply with Code Art. 21: would the drafting team consider expanding the definition of tampering – including definitions for cooperate and subversion - instead of including a new Code violation?

Sports Tribunal New Zealand

SUBMITTED

Helen Gould, Registrar (New Zealand)
Other - Other (ex. Media, University, etc.)

There should be a clear message that NADOs should be looking to find all inculpatory and exculpatory evidence and should conduct a thorough investigation.

It is appropriate to develop definitions for 'cooperate' and 'subversion' and to perhaps provide greater clarity on what is expected of the NSO. Additional violations are not necessary; the tampering violation will remain for incidents of positive interference, a failure to cooperate could be as simple as a lack of understanding or reserving a right not to say anything.

We agree that a NADO should act 'efficiently and without undue delay', to not do so could interfere with an athlete's ability to adequately prepare their defence.

Freelance journalist

SUBMITTED

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

How well equipped are NADOs to conduct investigations? Do they have the expertise and/or resources? The general trend noted is NADOs handle reports from labs and charge the athletes and argue the case before panels. Even when athletes escape en masse from dope-testing or when there is allegation that a training partner advised an athlete to take the banned drug, there may hardly be any investigation. The same is true when spurious prescriptions for the use of prohibited substances are produced by the athletes during hearings or when an athlete claims a medical emergency at home as the reason for his or her absence at a doping control after being notified.

International Testing Agency

SUBMITTED

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

We agree with all key areas identified and at this stage, are filing specific comments on two aspects:

1. There should be greater clarity on when it is mandatory to carry out an investigation and what are the triggers. This should be listed in the ISII in an exhaustive manner.

Currently, it is our understanding that there are different types of investigations required by the Code and ISTI.

A. Based on Article 20.3.12 of the Code (IF's obligations) and 20.5.7. (NADO's obligations), it is our understanding that:

o The ADO must "vigorously pursue all potential ADRV within their authority.

- Greater clarity on the threshold to consider that a potential ADRV has occurred would be needed:

> *Atypical Finding, Adverse Analytical Finding, Adverse Passport Finding, Failure to Comply; or*

> *A reasonable cause to suspect that an ADRV may have been committed" [Art.12.1. b) ISTI]*

- o Once a potential ADRV is uncovered, clarity should be brought that there is no discretion to decide not to pursue it and that if the ADO decides not to move forward with the investigation or that the outcome is that an ADRV cannot be confirmed, a reasoned decision is to be issued for the parties with a right of appeal is needed.
- o This concept should be addressed under the same section of the ISII for clarity (adding article 14.1.4 Code for example).
- o It would be useful to better define the interplay between the investigation and the results management. Article 12.3.2. ISTI which refers to an investigation leading to an assertion of the ADRV and ISRM Article 8 proceedings does not detail the steps prior to the assertion of the ADRV and greater details would be useful.

B. Mandatory Investigations

- o Based on Article 20.3.12 Code (IF obligations) and 20.5.12 (NADO obligations), it is our understanding that it is mandatory to commence investigations in different scenarios:
 - o “into whether ASP or other Persons may have been involved in each case of doping” ; *For each individual established ADRV (or “case of doping” one could argue), investigating whether the entourage was involved must take place. [Art.12.1.d) ISTI]*
 - Greater clarity on the timing of such investigation; whether it applies to all types of ADRVs (inadvertent ADRV, AAF covered by R-TUE, etc. may not deserve the same focus).
 - o “any ADRV involving a Protected Person;
 - o “ASP who has provided support to more than one Athlete found to have committed an ADRV”
 - Greater clarity on how to report the outcomes of such investigation when it does not lead to an ADRV charge would be useful (article 12.3.3.)
 - Article 12.1.1 ISTI also gives rise to the need to clarify the interplay between the RM and the investigation, for example “ where the evidence that supports the initiation of an ADRV proceedings in accordance with Article 8”. We believe that Article 8 is not necessarily accurate here. Article 5 ISRM may be more fitting.

2. Obligation to cooperate (Article 21)

We support the review of this concept. The scope of the cooperation, due process rights around the cooperation (or lack thereof) and whether it includes the athlete/ASP’s own ADRVs should be clarified.

Concept #4 – Substantial Assistance (23)

World Rugby

David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

SUBMITTED

As per our other comments on substantial assistance, we would support a review of this provision.

International Tennis Integrity Agency

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

SUBMITTED

One of the factors that mean substantial assistance is not viewed as a route athletes or support personnel wish to pursue is the sanction that is published identifies that individual as one who has provided substantial assistance.

Sport NZ

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

SUBMITTED

This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.

Sport NZ welcomes clarity on the benefit that can be afforded to provision of substantial assistance.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

Supported

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

No comments

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

NADA Comment: Agree

NADA Austria

SUBMITTED

Alexander Sammer, Head of Legal (Austria)

NADO - NADO

According to **Concept #4**, we expressly welcome the revision. We have also identified irregularities in its application. It would be desirable to have an easy-to-understand solution in which athletes understand the implications and also use this instrument.

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)

NADO - NADO

We support the concept of reviewing the applicability of substantial assistance and refer to our comments in Code review.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

We first refer to our general remarks on this Standard, made for concept 1 and in the item "other comments/suggestions".

Without prejudice to these general remarks :

4) Substantial Assistance :

The ISII Drafting team has identified significant confusion and inconsistency around the issue of substantial assistance (Code Article 10.7.1) ; for example its workability and application across the various ADO, as well as its use and promotion by ADOs. This Topic is also being addressed by the Code Drafting team and the ISII Drafting team will accordingly work closely with the Code Drafting team to simplify the complexities around the issue and provide guidelines of best practices in dealing with athletes and other persons on the issue of substantial assistance.

-> We refer to our comments relating to the same concept, for the Code.

-> We agree that this article and this concept is very difficult to implement.

-> Guidelines on this would be welcome.

-> We nevertheless believe that the substantial aid should mainly be useful and used in the fight against more organized forms of doping.

-> Flexibility and better fluidity in implementation seem very important to us in future reflections.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

We **agree** the interpretation and application of the provisions dealing with substantial assistance must be clear, easily, and readily applied and upheld, and must be balanced and coordinated with the sanction regime under the Code to ensure the best outcomes are achieved for all stakeholders.

The types of assistance recognised under this provision should be expanded to include and recognise the value of information that promotes the fight against doping in sport. For example, information that uncovers doping practices and methodologies or exposes the actions of other third parties where a breach of another compliance, or regulatory regime, facilitates doping in sport.

The current focus on assistance that leads to a further ADRV, or criminal investigation, is too narrow and too constrained and is limited by current Code requirements, such as the Article 10.7.1 reference to the organisation that 'discovers or brings forward' the information'.

Athletes who are proactive and want to provide assistance, but do not meet the current criteria for substantial assistance, are at a disadvantage. By expanding the criteria and providing ADOs flexibility to apply substantial assistance, will result in ADOs receiving a wider range of assistance that could improve compliance and provide ADOs with a greater understanding of doping methodologies and practices.

It is also imperative that there is clarity around the benefit that will be afforded to an athlete providing assistance, to encourage the athlete to make a fully informed decision understanding the consequences of their actions.

The drafting team may wish to consider creating guidance on the range of suspension of consequences that could apply to the receipt of certain types of information. This may also expand to a relevant athlete's active engagement to assist an ADO in educating their peers of the pitfalls and impacts of ADRV process on their welfare and career, and avenues for providing assistance through whistleblower schemes.

USADA

SUBMITTED

Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

USADA has provided extensive comments on the substantial assistance provision in the Code. The rules should allow an ADO flexibility to implement substantial assistance at it deems most effective and appropriate in their country and given circumstances.

Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

The CCES agrees with the need for further clarity and guidance on this issue. In addition, any revisions made to the Substantial Assistance provisions of the Code and Standard should consider how to better incentivize the process to make it more appealing for athletes to engage.

Sport Ireland

SUBMITTED

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

Concept #4 – Substantial Assistance The ISII Drafting Team has identified significant confusion and inconsistency around the issue of substantial assistance (Code Article 10.7.1); for example, its workability and application across the various ADO jurisdictions, as well as its use and promotion by ADOs.

The ISII Drafting Team is aware of frustration experienced in various jurisdictions by investigators on the issue of substantial assistance. This topic is also being addressed by the Code Drafting Team (see Concept #6 of the Code Concept Paper) and the ISII Drafting Team will accordingly work closely with the Code Drafting Team to simplify the complexities around this issue and provide guidelines of best practice in dealing with athletes and other persons on the issue of substantial assistance.

Comment – It is agreed that this is a complex issue. In particular it is recommended that a set of operational guidelines be developed, to assist ADO's which find themselves facing the necessity to invoke the provisions of substantial assistance. This should also be useful in dealing with potential pitfalls such as allegations of inducement, or issues surrounding lack of understanding of the process and its implications.

Japan Anti Doping Agency

SUBMITTED

YUICHI NONOMURA, Result Management (??)
NADO - NADO

We strongly agree that the process of substantial assistance is so complex and could not figure out by reading Iss and guidelines. Therefore, it would be so much helpful if you could make simple and clear steps and guidelines of process/procedures.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

Our experience is that SA rarely comes to use because it has to be mentioned in the decision that the athlete has provided SA. Athletes who could potentially benefit from this, decide not to provide SA, or they change their mind when they learn about this requirement. It should be possible to stay anonymous and / or that the SA is not mentioned in the decision. Perhaps athletes providing SA should be able to train (but not compete!) while serving a period of ineligibility. Given the higher sanctions for violations of WADC art. 2.7 and 2.8 involving minors, minors could get an even greater reduction if they tell their ADO about Athlete Support Personnel who were involved in their doping case.

We are in favour of SA coming into play at an early stage of someone's case / investigation.

We believe the scope of SA should be expanded to involve not only information leading to another AAF, but also include if someone provides information which e.g. teaches an ADO how an athlete avoided testing positive, how

they managed their doping regime, how they traveled, how they hid their equipment – or basically anything that makes us smarter and can lead to ADOs testing differently and smarter.

Dopingautoriteit

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes these recommendations and awaits the proposals, but also warns against further obligations in relation to compliance issues.

Swiss Sport Integrity

Ernst König, CEO (Switzerland)
NADO - NADO

SUBMITTED

SSI welcomes the endeavor to refine the provisions for Substantial Assistance. A lot of questions still needs to be addressed regarding this topic, though. How can informants be protected given that a lot of organizations potentially have access to the records? Should ADOs be granted a abbreviated process (to limit the number of involved people / organizations)? Is oral information (i.e., without written documentation in case that's what the athlete wishes) sufficient for a reduction of the sanction? Shall sanctions that were reduced due to substantial assistance be published at all?

CHINADA

MUQING LIU, Coordinator of Legal Affair Department (CHINA)
NADO - NADO

SUBMITTED

Comment 1? Substantial assistance from the individual involved often plays a key role in pursuing serious ADRVs by ADOs. In order to enhance the efficacy of the Article of Substantial Assistance, we support the proposal of lessening the associated requirements, such as removing the “seriousness of the ADRV committed” criterion.

Comment 2: It has to be noted that how to measure the value of substantial assistance is relatively complicated in the practice. Different ADOs may have their own judgments. We hope that WADA can provide clear guidance or issue examples.

Anti Doping Danmark

Silje Rubæk, Legal Manager (Denmark)
NADO - NADO

SUBMITTED

Supported

NADA India

NADA India, NADO (India)
NADO - NADO

SUBMITTED

- Address inconsistencies by establishing clear definitions and guidelines for substantial assistance.
- Propose a technology-driven system for tracking and managing substantial assistance cases.
- Allocate budget for educational programs on substantial assistance protocols.

-Advocate for a standardized, transparent process to enhance athlete cooperation.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

UKAD is supportive that the topic of Substantial Assistance is a focus for the ISII Drafting Team and supports the proposal to work closely with the Code Drafting Team on this matter. UKAD recognises that early intervention could be critical in securing Substantial Assistance information that may lead to further ADRVs coming to light and being prosecuted. Consideration should be given to the ISII providing more than just guidelines on the best practices for dealing with Athletes and other Persons on the issue of Substantial Assistance but also including a detailed and authoritative appendix on the Substantial Assistance procedure as part of the ISII (requirement) so that it is more binding and consistent for all ADOs. Having a clear and comprehensive appendix on the Substantial Assistance procedure in the ISII could help to overcome challenges and ensure a more effective and efficient implementation of Substantial Assistance.

Furthermore, UKAD is aware that the SHIN has provided the drafting team with a paper documenting several issues and recommendations relating to the Substantial Assistance process, which should be taken into consideration.

Freelance journalist

SUBMITTED

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

At the moment there is hardly any clarity on this clause. What constitutes "substantial assistance" needs to be spelt out in detail to help ADOs determine whether there is substantial assistance or not. WADA should continue to have a say in the final outcome of such cases.

International Testing Agency

SUBMITTED

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

We support this review and have filed our comments under Concept # 6 of the Code)

Concept #5 – Investigations of AAFs and Non-Analytical Violations (19)

World Rugby

SUBMITTED

David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

We would support the provision of further guidance and clarity in this area.

International Tennis Integrity Agency

SUBMITTED

Nicole Sapstead, Senior Director, Anti-Doping (United Kingdom)
Sport - Other

The ITIA would request that guidance is provided on what is deemed as an appropriate level of investigations and clarity around how this might differ depending on the substance detected etc.

Sport NZ

SUBMITTED

Jane Mountfort, Principal Policy and Legal Advisor (New Zealand)
Public Authorities - Government

This submission is made on behalf of Sport New Zealand, which is the Crown agency responsible for advising the New Zealand government on anti-doping policy and ensuring New Zealand's compliance with the International Convention against Doping in Sport 2005.

Clarity on this topic would be welcome.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)

Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

Supported

Investigations on AAF should be coordinated between RM and II units if existing in ADOs. Clarifications should be made on the role, the responsibility of these units and the necessity to coordinate among them.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

No comments

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)

NADO - NADO

NADA Comment: partly agree

It should be made clearer that RM and Investigations must go hand in hand, however, I&I should be used to prepare all evidence for that particular case.

During the RM proceedings I&I should accompany the proceedings to investigate in any further outcome / associated non-analytical finding and any possible involvement of a third parties.

The involvement from investigators in the notification process may vary from country to country due to manpower and circumstances such as notification of foreign athletes. Since the notification process can lead to legal obstacles and may jeopardize costly proceedings, it should be handled with utmost care and be part of the ADOS RM process to decide.

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)

NADO - NADO

Clarification on AAF investigations

We support the concept. We agree with early involvement by an investigator.

We also reiterate our earlier point that consideration should be given to the amount of investigation required by an ADO (e.g., into an athlete's defence) to ensure that it is not inadvertently shifting the evidential onus from the athlete to the NSO.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

We have very good experience with trained investigators getting involved at an early stage. All relevant inquiries should be conducted by qualified personnel, preferably with relevant experience from Law Enforcement.

ONAD Communauté française

Julien Magotteaux, juriste (Belgique)
NADO - NADO

SUBMITTED

We first refer to our general remarks on this Standard, made for concept 1 and in the item "other comments/suggestions".

Without prejudice to these general remarks :

5) Investigations of AAFs and Non-Analytical Violations :

The ISII Drafting team has identified a lack of consistency amongst ADOs in the investigation of AAFs. Many ADOs treat an AAF as an administrative exercise, like the end of an investigation, and do not consider other possible associated non-analytical violations (e.g., 2.6 (possession) or 2.9 (trafficking), or intelligence that may be gathered. Some ADOs consider an AAF as the start of an investigation and use investigators to notify an athlete of an AAF, and establish how and why the AAF occurred. The earlier an investigator is introduced to a case, the greater the chances that the truth will be discovered. The ISII Drafting team propose to provide significant clarity and guidance around this topic.

-> We refer to our general comments regarding this Standard and, in particular, on the need for flexibility, on the fact that guidelines should be favored and that the resources of the signatories have recently been increased and are limited.

-> So we agree on better guidance on this topic, but without additional requirements and without an increase in resources.

USADA

Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

SUBMITTED

The guidance should strongly recommend, if not require, that I&I teams be included in the assessment process of an AAF to recommend and undertake further investigatory steps are appropriate under the circumstances, e.g., notifying the athlete in person and interviewing the athlete.

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

We **agree** that significant clarity and guidance around the investigation and management of AAFs is required to ensure a consistent and harmonised approach (as outlined in our response to the proposal re Art. 12.1).

As articulated in the response to **Concept #2 – Human Source Management, Use, and Oversight**, a minimum standard should be included. Procedures must be designed to promote a thorough investigations balanced with achieving an effective process that is aligned with the goal of catching the facilitators and the cheats.

We also suggest this same approach is put in place for other non-AAF ADRVs and pursuit of these matters should be promoted to the same extent as an investigation into the circumstances of an AAF.

Canadian Centre for Ethics in Sport

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

SUBMITTED

The CCES agrees that further clarity should be provided, however given the limitations faced by many ADOs, the inclusion of specific requirements within the Code or Standard need to be measured.

Sport Ireland
Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

Concept #5 – Investigations of AAFs and Non-Analytical Violations.

The ISII Drafting Team has identified a lack of consistency amongst ADOs in the investigation of AAFs. Many ADOs treat an AAF as an administrative exercise, like the end of an investigation, and do not consider other possible associated non-analytical violations (e.g., Code Articles 2.2 (Use), 2.6 (Possession), 2.9 (Trafficking)), or intelligence that may be gathered. Some ADOs consider an AAF as the start of an investigation and use investigators to notify an athlete of an AAF, and establish how and why the AAF occurred. The earlier an investigator is introduced to a case, the greater the chances that the truth will be discovered. The ISII Drafting Team propose to provide significant clarity and guidance around this topic.

Comment – It is agreed that clarity and guidance around this topic will be useful, whilst allowing ADO’s to retain the flexibility to adopt procedures and practices which are best suited to their particular operating environments.

Japan Anti Doping Agency
YUICHI NONOMURA, Result Management (??)
NADO - NADO

SUBMITTED

We welcome on providing significant clarity and guidance around this topic. At the same time, many ADO may not know what we need to do. It is nice to know what process we need to do minimumly. On the other hand, we concern that if there are too many mandatory requirement, that burdens ADOs. Especially there will be limitations what ADO can do with trafficking and possession. It should be "where appropriate" or something similar.

Dopingautoriteit
Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

SUBMITTED

Recommendation: Doping Authority Netherlands welcomes these recommendations and awaits the proposals, but also warns against further obligations in relation to compliance issues.

Anti Doping Danmark
Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

SUBMITTED

Supported

NADA India
NADA India, NADO (India)
NADO - NADO

SUBMITTED

-Standardize ADO approaches to AAFs with technology-driven case management.

- Advocate for early involvement of investigators to ensure comprehensive inquiries.
- Propose budget allocation for training programs on consistent investigation practices.
- Encourage the adoption of intelligence-led testing strategies.
- Suggest periodic reviews and updates to ensure ongoing consistency.

UK Anti-Doping

SUBMITTED

UKAD Stakeholder Comments, Stakeholder Comments (United Kingdom)
NADO - NADO

UKAD is supportive of this proposal. A best practice document could be appended to the ISII to ensure that Investigation teams have a standard to work towards.

International Testing Agency

SUBMITTED

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

- We agree with the need to clarify the scope of 12.1.d) ISTI . Not all ADRVs systematically hide other ADRVs (inadvertent ADRV, AAFs covered by R-TUE). ADRVs where involvement of other athletes/ASP/person is prima facie likely (APFs, 2.2, tampering, etc. should be identified and the focus of investigation resources.

- The role of the investigators in the early stages of the RM is also key and changes to the notification process (and related disclosure of article 14 Code) should be brought to allow ADOs to notify the person who potentially committed an ADRV (and WADA) only. It is our experience that as soon as the NF, other official stakeholder or the public is aware of a potential ADRV, the person will be less likely to cooperate and talk.

- Clarity on this type of advance notification/content and potential “Miranda rights” should be brought to ensure that the athlete’s initial statement are not at risk to be found inadmissible at a later stage.

Concept #6 – An Accessible Standard (17)

World Rugby

SUBMITTED

David Ho, Senior Manager Anti-Doping Operations (Ireland)
Sport - IF – Summer Olympic

We consider that this 'acceptable/accessible standard' is a good idea and should be achievable but the ISII could benefit from being clearer on expectations. For example, the ISE defines specifically what an education programme should consist of. Is there not scope for the ISII to provide a similar range of (mandatory and non-mandatory) requirements for what an investigation should entail - which would ensure that there was (i) more standardisation and (ii) less chance for significant discrepancy in the way that investigations are conducted in terms of thoroughness. In the same way as the ISE this need not disadvantage lesser-resourced organisations.

Council of Europe

SUBMITTED

Council of Europe, Sport Convention Division (France)
Public Authorities - Intergovernmental Organization (ex. UNESCO, Council of Europe, etc.)

Supported (strongly)

The difference between ADOs – and notably the specificities of NADOs – should be addressed in this regard.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

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

No comments

NADA

SUBMITTED

NADA Germany, National Anti Doping Organisation (Deutschland)
NADO - NADO

Comment NADA: Agree

Drug Free Sport New Zealand

SUBMITTED

Nick Paterson, Chief Executive (New Zealand)
NADO - NADO

We support the concept and agree that guidelines will help to create consistency but need to be applicable to a range of ADOs with different levels of resource available.

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)
NADO - NADO

We accept that it is challenging to create an IS that is efficient but still accessible for all ADOs, as the level of competence and resources within I&I varies a lot. We still support a separate standard for I&I as it will clarify the regulations and make it more user friendly and clear.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)
NADO - NADO

We first refer to our general remarks on this Standard, made for concept 1 and in the item "other comments/suggestions".

Without prejudice to these general remarks :

6) An accessible Standard :

The ISII Drafting team proposes to consider holistically the notion of an «acceptable standard», i.e., a standard that does not unfairly disadvantage an ADO that is poorly resourced compared to an ADO that is well resourced. However, the ISII Drafting team is conscious of the need to produce a standard that is practically and operationally useful. This noted, it is an unfortunate reality of anti-doping that many ADOs do not have a truly effective intelligence and investigative capability or are so poorly resourced that most of their energy is expended on ineffective testing programs. Additionally, the ISII Drafting team proposes to consider the practicalities of policing the new Standard, including matters like how to assess a stakeholder's compliance, and the resources required to properly audit a stakeholder's compliance with the ISII.

-> This is a very good reflection, which is in line with our general remarks to which we refer, in particular regarding the need to carry out a prior impact assessment, particularly in relation to the resources of the signatories and the need to provide an explanation as to the need or not to adopt a new, separate Standard.

-> There are indeed big differences in terms of resources between the signatories;

-> Resources have been increased recently and for many ADOs, further increase in resources is impossible;

-> Hence the need to have a certain flexibility, while of course having useful and operational rules in this matter as well.

-> It is in any case positive and reassuring that the Drafting team is aware of these difficulties and takes into account this dimension (linked to inequalities in terms of resources), in a flexible, practical and proportionate manner (also in relation to the question of assessment, requirements and conformity).

USADA

Victor Burgos, Chief Investigative Officer (United States)
NADO - NADO

SUBMITTED

The focus should be on substance over formality. For example, the standard should require that the ADO has a tip line and assesses tips and follows up on non-analytical and analytical evidence appropriately. Formal procedures and processes should remain a recommendation because capacity seems to be a significant issue in many ADOs, and ADOs' focus should be on taking steps to curb doping, not on creating documents that check a compliance box

Sport Integrity Australia

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)
NADO - NADO

SUBMITTED

We **agree** with the proposal to produce a standard that is operationally and practically useful, and addresses and recognises the different capabilities of ADOs.

It is our view that setting a standard that promotes and supports the wide scope of programs is crucial. For example, by guiding developing programs while granting flexibility to established programs to grow and improve.

We encourage a standard that promotes and strengthens information sharing and collaboration of ADOs. Additionally, we encourage a holistic approach where intelligence and investigations teams can utilise shared data sets, to not only address existing trends, but identify and integrate new and proactive strategies. This will assist to prevent, deter, or minimise doping methods evolving into trends which significantly impact the global sporting landscape.

Subsequently, this would elevate the need, and importance, of clear auditing practices to ensure compliance and minimise the risk for breaches in security.

Sport Ireland

Melissa Morgan, Anti-Doping Testing and Quality Manager (Ireland)
NADO - NADO

SUBMITTED

Concept #6 – An Accessible Standard

The ISII Drafting Team proposes to consider holistically the notion of an ‘acceptable standard’, i.e., a standard that does not unfairly disadvantage an ADO that is poorly resourced compared to an ADO that is well resourced. However, the ISII Drafting Team is conscious of the need to produce a standard that is practically and operationally useful. This noted, it is an unfortunate reality of anti-doping that many ADOs do not have a truly effective intelligence and investigative capability or are so poorly resourced that most of their energy is expended on ineffective testing programs. Additionally, the ISII Drafting Team proposes to consider the practicalities of policing the new Standard, including matters like how to assess a stakeholder’s compliance, and the resources required to properly audit a stakeholder’s compliance with the ISII. Stakeholder’s feedback on this will be valuable to the ISII Drafting Team.

Comment – An appreciation of this reality is essential, no ADO should find itself in a position whereby it may be non-compliant due to it’s inability attain a mandatory level of competence in the area of intelligence and investigations. It is essential to avoid imposing unrealistic levels of attainment in this area whilst ensuring that acceptable levels are in operation across the anti-doping landscape.

Canadian Centre for Ethics in Sport

SUBMITTED

Elizabeth Carson, Senior Manager, Canadian Anti-Doping Program (Canada)
NADO - NADO

The CCES agrees that this Standard (and all International Standards) should set out an “acceptable standard” that all ADOs must meet to be Code-compliant, with any suggested “enhancements” to the acceptable standard set out in a guidance document or model of best practice. It would be of no benefit to the anti-doping movement for these standards to be set so high as to be unachievable by a significant number of ADOs due to resource limitations (both human and financial).

Japan Anti Doping Agency

SUBMITTED

YUICHI NONOMURA, Result Management (??)
NADO - NADO

We welcome to have a standard that does not unfairly disadvantage an ADO that is poorly resourced, and also producing a standard that is practically and operationally useful. With unclear clause, we thought we could read with flexibility, but we asked more than we thought during the CCQ process and its request is not written anywhere. Therefore, if you would like to require with CCQ, the requirement should be clearly written so everyone understands what exactly need to do. At the same time, sometimes unclearness is necessary to be flexible and that helps many ADOs from non-compliance. Especially the part of governmental policy. Creating a policy by government takes time and sometimes impossible. Therefore, governmental policy should not be mandatory, at least with this version. Also requiring ADOs about governmental policy is NOT appropriate responsibility. Should not be the ADO's responsibilities.

Dopingautoriteit

SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)
NADO - NADO

Recommendation: Doping Authority Netherlands welcomes these recommendations and awaits the proposals, but also warns against further obligations in relation to compliance issues.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Danmark)
NADO - NADO

Supported

NADA India

NADA India, NADO (India)

NADO - NADO

SUBMITTED

- Support the idea of an accessible standard that accommodates diverse ADO resources.
- Propose a tiered compliance system based on ADO capabilities.
- Encourage the development of cost-effective technologies for intelligence and investigation.
- Allocate budget for resource-strapped ADOs to meet the proposed standard.
- Suggest a collaborative approach for sharing best practices and lessons learned to enhance operational effectiveness.

WADA NADO Expert Advisory Group

Martin Holmlund Lauesen, member (Norge)

Other - Other (ex. Media, University, etc.)

SUBMITTED

The NADO EAG supports the exploration of developing a separate international for intelligence and investigations, and we recognize that Code article 5.7 requires that all ADOs shall have the capabilities to conduct and shall conduct investigations and gather intelligence as required by the ISTI.

However, we also recognize that the capacities and capabilities vary from NADO to NADO (and other ADOs), and that there is a risk of increasing the expectations and requirements of ADOs by establishing a separate International Standard for I&I. We would therefore encourage the development of an ISII which provides sufficient and increased guidance to ADOs, while keeping the requirements at a reasonable level.

New requirements should reflect the reality of ADOs across the globe, in order to avoid creating requirements for policies and procedures that will be too overarching and too overwhelming for some ADOs. Furthermore, the new ISII should take into consideration the differences and limitations in national legislations and in legal statuses of NADOs (and other ADOs) across the globe.

While there have been made efforts to elevate the capacity of in particular European NADOs through the EU-funded I&I project, similar initiatives have yet to be developed for other parts of the world. Similar capacity-building activities should be initiated and put in place in other parts of the world.

Increasing the requirements to I&I will potentially lead to a significant increase in the work of the ADOs, including increasing the need for additional human and financial resources.

Freelance journalist

Karayi Mohan, Freelance journalist (India)

Other - Other (ex. Media, University, etc.)

SUBMITTED

The minimum requirement for an ADO should be an investigation team, even one officer should suffice for those that are poorly staffed. What should NADOs do when media or fellow athletes or coaches report syringes and vials piled up at the washrooms of stadium or hall where an athletics or weightlifting event is going to take place? Should the investigation officer investigate such reports? What action could be initiated against athletes or support personnel if they are found responsible?

Other Comments / Suggestions (10)

General observation

For all mandatory requirements the Standard will ultimately impose, there should be Code compliance implications. Each and any proposal made for the new ISII standard must therefore also be assessed through these eyes: will there be a compliance issue?

For example, if the ISII will require a NADO to access information through all available sources, the Standard must expressly mention that what information is actually available to a NADO will vary from country to country. Each country has its own rules and legislation regarding what kind of information is accessible to the NADO. Access to criminal and police information, information by law enforcement agencies, customs, health inspection and other agencies may or may not be available, depending on the domestic legislative landscape. The new ISII cannot in all cases designate (a) all types of information and (b) each information source, as being available to all (N)ADOs.

Comment #1

The ISII could be divided in two distinguished sections:

- Regulations on the process and the management of the information
- Regulations on the rights and obligations of the persons under investigation

Comment #2

The specificity of each ADO and their relations with law-enforcement and criminal legislation requires many non-mandatory rules ("should" rather than "shall").

Comment #3

The new standard might have a significant impact on ADO resources. Its implementation may require additional staffing with a specific background. A low resourced ADOs shouldn't be non-compliant if they cannot implement the standard fully. A flexibility of wording is crucial, and the majority of the new elements should be included in the guidelines rather than in the standard itself.

Comment #4

Some elements from ISRM could be moved to the new ISII in particular the initial RM phase, which has a lot of elements of an investigative nature.

Organizacion Nacional Antidopaje de Uruguay

SUBMITTED

José Veloso Fernandez, Jefe de control Dopaje (Uruguay)

NADO - NADO

No comments

NADO Flanders

SUBMITTED

Jurgen Secember, Legal Adviser (België)

NADO - NADO

As a general remark, NADOF thinks this standard is a good step forward, but would like to emphasize that adhering to this standard if all provisions are made compulsory, will take up human and financial resources, which might be very difficult for smaller NADOs. The shift in resources to I&I would endanger the scope of the testing program, if it would become mandatory to direct vast resources (in particular human resources with the required profile for staffing). It should be taken into account that many I&I resources can be found through cooperation with other

governmental agencies or law enforcement, without having to build the capacity at full within a smaller NADO.

Sport Integrity Australia

SUBMITTED

Chris Butler, Director, Anti-Doping Policy and International Engagement (Australia)

NADO - NADO

Throughout the concept papers, we observe your intent for drafting teams to collaborate ensuring amendments are integrated into the Code. Furthermore, we strongly support and advocate the necessity for drafting teams to align amendments with all other International Standards.

ONAD Communauté française

SUBMITTED

Julien Magotteaux, juriste (Belgique)

NADO - NADO

International Standard for Intelligence and Investigations

Referring to the previous European positions of April and September 2023 on this subject, it is necessary, for this proposal for a new Standard, to carry out a prior impact assessment.

This prior impact assessment must at least cover the resources of the signatories, the applicable legislation and rules and the rights of athletes.

Another general question is how necessary is this Standard? Is there a demand and if so, how big is it?

As highlighted in the general remarks, as well as those relating to the ISE, new requirements should not be added. Human resources have been increased recently but these are limited and cannot be increased constantly.

Here, this new Standard is presented as an achievement but this should be carefully considered, further explained and further discussed in the light of the impact evaluation described above, as well as a prior explanation as to the possible need for adopt yet another new Standard.

Alternatively and more flexibly, it should be considered to develop or adapt a less mandatory instrument such as guidelines, without adding new requirements and without modifying the current rules.

USADA

SUBMITTED

Victor Burgos, Chief Investigative Officer (United States)

NADO - NADO

Anti-Doping Norway

SUBMITTED

Martin Holmlund Lauesen, Director - International Relations and Medical (Norge)

NADO - NADO

There is a risk that required policies and procedures will serve as overarching documents and not reflect the reality for some ADOs. It is important to ensure that the procedures and policies are followed in reality and not just in place in writing.

Elements from the ISRM, in particular the initial phase of the RM-process, should be considered included in the ISII as well. A positive test should undergo the same rigorous and objective scrutiny as non-analytical cases, with a view to offer the athlete an objective investigations of facts and their explanations.

Japan Anti Doping Agency

SUBMITTED

YUICHI NONOMURA, Result Management (??)

NADO - NADO

We should consider adding new ADRV for not cooperating for investigation, like Whereabout failure. With new ADRV, it would make us easier to ask for cooperation with investigations. It should be responsibility of athletes and ASPs. However, when we add it as a new ADRV, we need to well consider about the sanction. It needs a balance between responsibilities and sanction.

Also, if we say "failure to cooperate", it is not clear enough that what athletes need to cooperate? We are not sure how much detail we need to go into mention, but might be necessary to specify.

If it is difficult to add new ADRV, at least, we would like to propose that "Publish the failure to cooperate with investigation" as a sanction or responsibility of ADO so this would give some impacts to athletes and ASP to cooperate.

At the same time, we need to provide appeal rights to athletes as same as the current result management process.

Dopingautoriteit

SUBMITTED

Robert Ficker, Compliance Officer (Netherlands)

NADO - NADO

1. General observation

1.1. A general observation that needs to be made regarding the new ISII is that whatever mandatory requirements the Standard will ultimately impose, there will be Code compliance implications. Each and any proposal made for the new ISII standard must therefore also be assessed through these eyes: will there be a compliance issue?

1.2. For example, if the ISII will require a NADO to access information through all available sources, the Standard must expressly mention that what information is actually available to a NADO will vary from country to country. Each country has its own rules and legislation regarding what kind of information is accessible to the NADO. Access to criminal and police information, information by law enforcement agencies, customs, health inspection and other agencies may or may not be available, depending on the domestic legislative landscape. The new ISII cannot in all cases designate (a) all types of information and (b) each information source, as being available to all (N)ADOs.

Anti Doping Danmark

SUBMITTED

Silje Rubæk, Legal Manager (Danmark)

NADO - NADO

ADD supports the possibility to give the investigation teams in the NADO's ability to access telephones and computers. This is for a more efficient investigation.

We believe that prompt admission only must be used in cases where the athlete tell about his own involvement in doping as a minimum. The person must therefore also attend the interview.

As addressed in the code under Concept #6 – Substantial Assistance, we think that it should be possible for athletes to be given the opportunity to train under a doping sanction if they come forward with information about other people (athletes / support personal) involved in the case. In addition, substantial assistance - maybe it could be possible of an even greater reduction for minor athletes, if they talk about support personal who have been involved in their doping case.

We also propose that it should be possible to give a reduction, if the substantial assistance gives very valuable information, but not necessary leads to the Anti-Doping Organization discovering or bringing forward an Anti-doping rule violation by another person. This is also addressed on the code under Concept #6 – Substantial Assistance.

2027 Code & International Standard Update Process : Stakeholder Engagement Phase - International Standard for Intelligence and Investigations (ISII)

Bram van Houten, Policy adviser, Ministry of Health, Welfare and Sport (Netherlands)
Public Authorities - Government

SUBMITTED

Concept #1 – Gathering, Assessment, and Use of Anti-Doping Intelligence

The standard should stay strictly within the scope of existing national legislation and national regulations on data processing, and the limitations they present to what a nado can and cannot do. It is for national legislators to decide what legal powers to give to a nado. By setting requirements as to what a nado should and should not be able to do, WADA is stepping in the role of national legislators, for which there is no legal basis.

Furthermore, to regulate in this way will create non-compliance in the current system, since nado's may not have the powers the Code might require on this point, and with art 8.4.3.1 ISCCS will be held to account for any lack of powers. The nado has no part and no responsibility in the decision-making of legislation, and should not have to suffer consequences for any actions or lack thereof.

As such all these points mentioned in this concept should have a non-mandatory nature, to avoid compliance procedures that could risk harming the system.

The construct of setting a requirement and allowing for exceptions, as is currently in place for art. 14.3.2 Code and comment 91 for example, creates tension over which interpretation of existing national legislation to follow and is therefore not a suitable solution. We would therefore suggest to not set this requirement.

WADA should consider to make open source data the starting point for this requirement.

Concept #2 – Human Source Management, Use, and Oversight

In this concept it is stated that it is intended to provide guidance and clarity. Generally regulators do not use regulations or a standard to which stakeholders are bound to provide guidance or clarity, but instead use an explanatory document or memorandum to that end.