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## 22 September 2010

Part 1:

**PROMOTION OF THE INTEGRITY OF SPORT AGAINST  
MANIPULATION OF THE RESULTS (MATCH FIXING)**

**Background Paper and Draft Resolution**

prepared by





## I. Introduction

With the development of the Internet, there has been a great increase in sports betting, especially betting during sports events, most often outside the legal framework of the country concerned. This phenomenon is a major concern of the sports movement as cases of corruption have increased exponentially over the past 10 years. Several European countries have been affected by issues related to the manipulation of sports results, in different sports and at different levels of competition.

The amounts of money involved in sports betting are huge while organisational budgets for sports competitions or bonuses allocated to the winners represent only a tiny fraction of the betting amounts at stake on these competitions.

The manipulation of sports results is frequently linked to often illegal sports betting. Illegal betting and the manipulation of results are linked to cross-border criminal networks.

The integrity of sports events constitutes a priority for the sports movement and for legal betting operators; indeed, if the uncertainty of the result is questioned, the interest in the sport and in betting on sports events disappears. A number of sports federations and specialised NGOs consider that promotion of the integrity of the game against the manipulation of sports results now constitutes a major issue for sport. This challenge requires a resolute alliance of the sports organisations, betting operators and public authorities.

## II. Preparatory work by the EPAS

At the 11<sup>th</sup> Council of Europe Conference of Ministers responsible for Sport (Athens, December 2008), the Ministers examined the question of illegal betting and match fixing as a "new challenge to ethics in sport".

In resolution no. 1 adopted in Athens, the Ministers:

"Invite the EPAS, along with other concerned bodies and organisations:

- to promote best practices to tackle the challenges to sports ethics posed notably by match fixing, corruption and illegal betting;
- in cooperation with its Consultative Committee, to continue the work on possible ways to enhance cooperation (between government and the sport movement) on combating corruption;
- to draw up a new draft recommendation to states on corruption, match fixing and illegal betting which could form the basis of a possible new convention on these subjects to help achieve increased integrity controls and a 'fair return' to sport for grassroots funding as regards betting."

To follow up this brief, the EPAS organised various conferences, meetings and consultations with representatives of the sports movement, betting operators, representatives of the public authorities concerned (sport, combating corruption, regulation of the betting industry, cybercrime, money laundering).

The EPAS chose to approach this issue by concentrating on the question of promoting integrity in sport, focusing on the upholding of ethics in sport and excluding adjacent issues such as:

- regulation of the betting industry;

- corruption in sport for other purposes than match fixing;
- prevention of gambling addictions;
- protection of minors from gambling.

Furthermore, the key issue of the funding of sport through betting receipts was not broached as such in this work and was taken into account only insofar as it was affected by the trends observed or the measures proposed.

### **III. Proposals**

On the basis of its work, the EPAS drew up a catalogue of measures, grouped into "guidelines" to assist the States, betting operators and sports organisations in their discussion and adoption of measures.

These guidelines include proposals for coordination between the different stakeholders concerned, preventive measures to be taken by the sports movement, preventive measures to be taken by the betting operators, and procedures for cooperation between the stakeholders. These measures essentially hinge on self-regulation of sports organisations and betting operators.

Among the measures suggested in the guidelines, several points were discussed between the States or commented on in different consultation phases and the EPAS wished to put these points to the ministers. At this stage, these measures have been formulated in such a way as to open the debate but without anticipating how the Council of Europe countries might support such measures, with a view to the preparation of a recommendation to the member states. The controversial issues are as follows:

#### Property rights of sport events

Introducing a right of exploitation of sports events would require betting operators to secure the agreement of the holders of rights in order to offer bets on the events in question.

This arrangement may be justified by the sports movement's need to raise funding via betting, in a context where the liberalisation of the gambling industry is causing a reduction in the amounts customarily allocated to the sports movement by the traditional sports lotteries.

It is also used as a lever to oblige the betting operators to cooperate with the sports organisations in the area of promoting the integrity of gambling (particularly in sharing certain information relating to "dubious" bets) and to fund the efforts of the sports movement, particularly programmes aimed at preventing, investigating and combating match fixing. Some betting operators claim that it is unacceptable on the part of the sports movement to exaggerate the risk of match fixing and use it as a pretext for obliging the betting operators to pay it back part of the receipts. These betting operators believe that the costs of the checks currently carried out, *inter alia* by the ESSA,<sup>1</sup> are already very high. Moreover, they feel that the betting operators pay back fair amounts to the sports movement, either through the redistribution of lottery takings or through sponsorship agreements.

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<sup>1</sup> The ESSA (European Sport Security Association) is an association of fixed-odds betting operators running betting monitoring programmes in order to detect match fixing.

This type of property right of sport events already exists in Austria, France and Poland. It is seen as a potential option in the Netherlands and in some quarters in the United Kingdom, although the UK government has not indicated support for this option. Arrangements of this kind have strong backing from the sports movement, which regards itself as the legitimate owner of events, whereas numerous betting operators believe that the results of sports competitions constitute information that must be within the public domain.

At this stage, the draft resolution submitted to the Ministerial Conference invites the EPAS to continue its examination of the issue of property rights of sport events, and invites the States to study the possibility of sports bets being organised only with the prior agreement of the event organiser (Guidelines, paragraph 22).

### Criminal law measures

One of the aims of the Guidelines on the manipulation of sports results is to ensure that the existing legislation, particularly criminal law provisions for combating corruption, is applicable in the world of sport. The examination of this proposal sparked controversy because the initial draft mentioned provisions specific to sport, as is the case in Italy, Portugal or the United Kingdom, and, in some States, the passing of legislation specific to sport is regarded in theory as contrary to the principle of the autonomy of sport.

It should nevertheless be pointed out that legislation punishing various corruption offences is indispensable to allow police investigations and that the sports movement is calling for cooperation in the area of criminal investigations and exchanges of information linked to the manipulation of sports results.

Therefore, the present draft resolution (Guidelines, paragraphs 10 to 13) stresses that the public authorities and the sports movement must tackle the issue in a spirit of subsidiarity. At the same time, a reference to criminal or other sanctions is maintained in the guidelines so that sports activities do not fall outside the scope of current legislation, particularly where combating corruption is concerned, but without suggesting that such sanctions be based on norms specific to sport.

### Conflicts of interest

Combating match fixing entails various measures geared to ruling out conflicts of interest. Some sports federations prohibit competitors, and their entourage, from betting on the competitions in which they take part or even from betting on the outcome of competitions in their discipline (Guidelines, paragraph 25.1). Some betting operators also follow codes of ethics or regulations aimed at prohibiting their staff from betting (Guidelines, paragraphs 36 and 39.1). Along similar lines, experts have pointed out that there may be a conflict of interest when fixed-odds betting operators provide financial support for sportsmen or teams taking part in competitions for which they offer bets (Guidelines, paragraph 37). This paragraph has been worded in such a way that support from betting operators for the sports movement is not excluded as a whole but only support for the competitors involved.

While the sports movement is willing to consider rules aimed at preventing conflicts of interest, some betting operators claim that these restrictions are unjustified. They believe that the codes of conduct adopted by each operator or association of operators are sufficient to prevent conflicts of interest on the part of their employees and managers and that betting operators have an interest in the integrity of sport being preserved.

Given the controversial nature of these proposals, the draft resolution maintains them in the Guidelines, while stressing that they must be adopted first and foremost by the sports organisations and the betting operators, as a measure of self-regulation.

#### Cooperation with betting operators and combating illegal betting

The draft resolution on match fixing calls for cooperation between the governments and the betting operators. However, the States can only cooperate with those operators functioning within the framework of their legislation.

This raises the issue of action against betting operators offering their services, particularly via the Internet, in States whose legislation does not allow them to do so. However, whereas certain States (such as Italy) pride themselves on their action against illegal betting operators (for example by blocking web addresses), other States refuse to envisage measures that may impinge on the freedom of internet users and whose effectiveness is not proven.

For that reason, the present resolution focuses on the development of cooperation with (legal) betting operators and does not mention action against illegal betting.

It should be borne in mind that the influence of governments is limited to organisations legally allowed to operate or to provide services in their country. Therefore, the development of restrictions and of regulation should be balanced with recognition and some protection, so as to avoid giving illegal operators an advantage.

The Ministers are invited to discuss the issues related to the promotion of integrity in sport to combat match fixing.

- Which best practices might be promoted in order to uphold and reinforce integrity in sport to combat match fixing?
- In the light of the approaches and practices suggested in the “Guidelines”, is it desirable to pursue consultations between the States and with the circles concerned in order to find a consensus on the questions currently under debate?
- Should the EPAS prepare a draft recommendation of the Committee of Ministers to the member States of the Council of Europe, in consultation with the relevant sectors of the Organisation (corruption, money laundering, criminal law etc)

### **Draft Resolution No. 1**

#### **Promotion of the integrity of sport against the manipulation of results (match-fixing)**

The European Ministers responsible for Sport, meeting in Baku, in Azerbaijan, for their 18<sup>th</sup> Informal Conference on 22 September 2010:

- Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and of facilitating their economic and social progress;
- Bearing in mind the Committee of Ministers’ Declaration on compliance with commitments accepted by member states of the Council of Europe (Strasbourg, 10 November 2004);
- In accordance with the Final Declaration adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on

10 and 11 October 1997, which emphasises the standard-setting role of the Council of Europe, in particular to seek common responses to the challenges posed by the growth in corruption;

- Considering the conclusions of the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), which recommended the continuation of Council of Europe activities which serve as references in the field of sport;
- Reiterating that the Resolution CM/Res(2007) 8 establishing the Enlarged Partial Agreement on Sport (EPAS) assigned the task of developing standards to deal with topical issues in international sport to the EPAS;
- Having regard to its Recommendations (92) 13Rev on the European Sports Charter; (92)14Rev on the Code of Sports Ethics and (2005) 8 on the Principles of Good Governance in Sport;
- In the light of the work and conclusions of the 11th Council of Europe Conference of Ministers responsible for Sport, held in Athens on 11 and 12 December 2008, in particular in the areas of match-fixing, corruption and illegal betting;
- In the light of the Budapest Convention on Cybercrime of 23 November 2001, especially the articles related to data interchange;
- Acknowledging that, as a general rule, the sports movement is responsible for sport but that public authorities are invited, where appropriate, to develop mutual cooperation with the sports movements, in order to promote the values and benefits of sport;
- Convinced that the successful implementation by private companies and sports organisations of effective good governance policies, including codes of ethics, would help to strengthen their self-governance in matters relating to sport and would further consolidate their position with respect to public authorities on the basis of mutual respect and trust;
- Considering that it is necessary to further develop a common European framework for the development of sport in Europe, based on the notions of pluralist democracy, the rule of law, human rights and ethical principles;
- Reaffirming that the nature of sport itself, based on fair-play and equal competition, requires that unethical practices and behaviours in sport be forcefully and effectively countered;
- Aware of the pressures which modern society, marked among other things by the race for success and economic profits, brings to bear on sport;
- Stressing their belief that the consistent application of the principles of good governance and ethics in sport would be a significant factor in helping to eradicate corruption, manipulation of sports results (match fixing) and other malpractices in sport;
- Acknowledging that attempts to manipulate sports results, including in an organised manner and at the international level, constitute a growing problem;
- Convinced that match fixing may erode confidence among the public if it perceives sport as a place where manipulation gives substantial financial benefits to certain individuals, rather than as an activity where the glorious uncertainty of sport predominates;
- Convinced that dialogue and cooperation among public authorities, betting operators and sports organisations based on mutual respect and trust is essential in seeking effective common responses to challenges posed by the problem of manipulation of sports results;
- Invites the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with the Group of States against Corruption (GRECO), the European

Committee on Crime Problems (CDPC), Moneyval, and the Economic Crime Division (Cybercrime), to facilitate the implementation of this draft resolution;

- Invites the Enlarged Partial Agreement on Sport (EPAS), where appropriate, in co-operation with other relevant national and international bodies, to continue working on this issue with a view to the adoption of a Recommendation of the Committee of Ministers to Council of Europe member states on the manipulation of sport results and to refine and elaborate good practices on the issue of the manipulation of sports results;
- Invites the governments of states parties to the European Cultural Convention which have not already done so to adopt effective policies and measures aimed at preventing and combating the manipulation of sports results in all sports, drawing inspiration from the Guidelines in the appendix to this draft resolution;
- Calls upon all sport organisations as well as betting operators, to further these aims through all the means available to them;
- Calls upon the Enlarged Partial Agreement on Sport (EPAS), in cooperation with the European Union and the Sports Movement, to continue consultations on the possibility of developing ownership of sport events by their organiser, especially in situations where the gambling market is liberalised...



## **Appendix to the draft resolution**

### **Guidelines**

#### **A. Definition**

1. In this document, the expression “manipulation of sports results” covers influencing the course or the result of a sports match in order to obtain advantage for oneself or for others and remove all or part of the uncertainty normally associated with the results of a competition.
2. In this document, the term “athletes” should be understood as sportsmen and sportswomen participating in organised sports activities and “sports officials” should be understood as anyone taking part in the activities of sports organisations in any role, including the owners of sports organisations.

#### **B. Sharing responsibilities and co-ordination**

3. The responsibility for combating “manipulation of sports results” falls to public authorities (the legislative and governmental authorities, the courts, the police, and government bodies responsible for sport) and non-governmental organisations (professional and amateur national sports associations, clubs, local sports associations, legal organisations managing lotteries, legal betting operators, supporters' clubs, players' organisations, umbrella organisations of lotteries and/or betting operators, non-governmental organisations involved in the fight against corruption and so on), in a spirit of subsidiary and partnership.
4. In designing a policy and action to effectively combat “manipulation of sports results”, an overall approach involving all the partners should be adopted. At national level, the tasks and responsibilities of all those involved should be set out in a framework agreement.
5. In general, each party should encourage, by any means, the development of measures to address risks associated with the manipulation of sports results, particularly in the context of the development of betting, and study the establishment of a viable, equitable and sustainable regulatory framework to protect the integrity of sport.
6. If a framework agreement is concluded, it should include means of consultation and co-ordination between the parties concerned. In addition to their prerogatives in relation to law-making, the courts and the police, government bodies should also, where appropriate, act as co-ordinators.
7. Governments should also support non-governmental organisations, particularly national sports organisations, clubs and organisations fighting corruption, which have the primary responsibility for implementing awareness-raising, educational and information programmes on manipulation of sports results. The payment of grants to sports organisations and clubs could be made conditional on a firm commitment and effective action by them to combat manipulation of sports results.

8. Regarding the sports movement, at the international level particular leadership and disciplinary responsibilities lie with sports governing bodies and their affiliated national organisations.
9. Regarding the betting industry, at the international level particular leadership and self-regulatory responsibilities lie with the umbrella organisations of the lotteries and betting operators.

### **C. Legislative measures**

10. Although legal rules prohibiting active and passive bribery in the private sector exist in most of the Council of Europe member states, governments should ensure that current legislation addresses issues related to the manipulation of sports results or, otherwise, take special measures.
11. Every government should ensure that its legal and administrative systems are given the most appropriate and effective national legal means of combating manipulation of sports results. To give an example, legal measures on combating “manipulation of sports results” could be introduced into the existing body of legislation, in, for example, the penal code. Such measures could also be adopted as part of a specific sports law, and/or the law concerning the fight against bribery.
12. Legislation should proscribe as criminal or other offences a number of acts related to “manipulation of sports results”, in accordance with the fundamental principles of domestic law. Governments are invited to consider whether their legislation covers intentional manipulation of sports results and, where appropriate, take such legislative and/or other measures as may be necessary:
  - 12.1 to establish as a criminal or other offence any manipulation of sports results;
  - 12.2 to establish manipulation of sports results as a predicate offence for the criminal or other offence of money laundering;
  - 12.3 to introduce liability of legal persons for any criminal or other offence established in accordance with the present draft resolution;
  - 12.4 to establish as offences liable to criminal or other sanctions the following acts or omissions, when committed intentionally, in order to commit, conceal or disguise any criminal or other offence established in accordance with these Guidelines:
    - a) creating or using an invoice or any other accounting document or record containing false or incomplete information;
    - b) unlawfully omitting to make a record of a payment;
  - 12.5 to establish as a criminal or other offence aiding or abetting the commission of any criminal or other offence established in accordance with the present draft resolution;

- 12.6 to provide for effective, proportionate and dissuasive sanctions and measures in respect of any offence established in accordance with these Guidelines;
  - 12.7 to apply the provisions of the Convention on Cybercrime to criminal or other illegal acts, committed using computer systems, involving manipulation of results or the conduct of illicit bets.
13. In the fight against manipulation of sports results, governments should adopt such measures as may be necessary to ensure that law enforcement officers or agencies have appropriate powers to combat the manipulation of sports results.
  14. Governments should adopt legislative and/or other measures enabling rapid action to be taken to ensure the preservation of computer data relating to sporting bets. To that end, Governments should designate a point of contact available on a twenty-four hour, seven-day-a-week basis in order to ensure the provision of immediate assistance for the purpose of investigations concerning infringements of the laws mentioned in the present draft resolution. This point of contact can be the body identified under Article 35 of the Budapest Convention on Cybercrime of 23 November 2001 (CETS No 185).
  15. Governments should establish and, where appropriate, make use of effective channels for the exchange of intelligence and information related to the investigation and/or prosecution of manipulation of sports results at national and international level, on the understanding that information and intelligence should be transmitted rapidly and be detailed enough to be of practical use.
  16. Governments should assist each other to the fullest possible extent and ensure spontaneous exchange of intelligence and information on manipulation of sports results between national, foreign and international authorities, where there are reasonable grounds to believe that any offence established in accordance with these Guidelines has been committed, and provide, upon request, all necessary information to the national, foreign or international authority requesting them.
  17. Governments should adopt legislative measures to ensure that betting operators and sports organisations which do not voluntarily co-operate in submitting data in their possession or under their control are obliged to do so.
  18. Betting operators and sports organisations should be subject to effective, proportionate and dissuasive penal or other sanctions and measures, including pecuniary sanctions, in the event that they do not co-operate with government authorities or if they hinder the collection of electronic evidence in the field of sporting bets.
  19. Governments should ensure that sports bets can be monitored in the framework of the prevention and prosecution of money laundering.
  20. Governments should introduce mechanisms for whistle-blowing in the area of manipulation of sports results and consider incorporating into their domestic legal systems appropriate mechanisms to provide protection for any person who reports in good faith and on reasonable grounds to the competent authorities any fact concerning offences established in accordance with these Guidelines.

21. Governments must ensure protection of privacy and personal data in investigations into the manipulation of sports results, in the light of European standards and, in particular, human rights.
22. With a view to combating manipulation of sports results, governments are invited to explore the possibility of ensuring that no betting is allowed on a sports event unless the organiser of the event has been informed and has given prior approval, in accordance with the fundamental principles of states' domestic law.

#### **D. Preventive activities of sports organisations**

23. The sports movement should achieve an appropriate level of relevant self-regulation in order to combat manipulation of sports results. Self-regulation by the sports movement should be encouraged by governments, and possibly backed by public standards or policies.
24. Sports organisations at national and international level should consider the adoption of appropriate measures to ensure good conditions for their professional athletes and sports officials, including through schemes aimed at safeguarding their salaries and through bans on participation at different levels of competition for sports organisations failing to regularly fulfil their financial obligations towards their athletes and sports officials.
25. National and international sports organisations faced with cases of manipulation of sports results should clarify and discuss their respective rights, obligations and duties, in particular:
  - 25.1. rules against manipulation of sports results, in line with the standards agreed by the relevant international sports organisations; these rules should include:
    - a) rules on the prevention of conflicts of interest of athletes and sports officials, in particular by introducing bans on betting on their own matches and/or competitions and by restricting the passing on of insider information;
    - b) rules on the prevention and punishment of any offence established in accordance with these Guidelines and related breaches of codes of conduct;
    - c) systems for cancellation of sports events where a risk of fraud has been established/identified;
    - d) effective, proportionate and dissuasive sanctions for athletes, sports officials and accessories found to be in breach of these rules, such as temporary or permanent bans on further sports activities, reimbursement of pecuniary damage caused, etc;
  - 25.2. supervisory procedures in the area of manipulation of sports results;
  - 25.3. disciplinary procedures, in line with agreed international general principles of law and ensuring respect for the fundamental rights of suspected athletes and sports officials; these principles include:
    - a) investigating and disciplinary bodies to be distinct from one another;

- b) the right of such persons to a fair hearing and to be assisted or represented;
  - c) clear and enforceable provisions for appealing against any judgment given;
- 25.4. procedures for the mutual recognition of suspensions and other sanctions imposed by other sports organisations, including in other countries;
- 25.5. invitation to athletes and sports officials to participate actively in the fight against manipulation of sports results.
- 26. Sports organisations are encouraged to select sports officials, especially referees and judges, at the latest possible stage before the match/competition.
- 27. Sports organisations are invited to consider introducing random financial audits for referees and judges and to ensure regular scrutiny of their field decisions.
- 28. Sports organisations are encouraged to introduce arrangements for monitoring and recording matches/competitions where there is risk of fraud.
- 29. Sports organisations are called upon to increase awareness and knowledge among their athletes and sports officials on the issue of manipulation of sports results and its consequences through education, training and publicity.
- 30. Sports organisations should ensure transparency in the financing of sports organisations.

#### **E. Preventive activities of betting operators**

- 31. Betting operators should achieve an appropriate level of self-regulation in order to combat manipulation of sports results. Self-regulation by betting operators' organisations should be encouraged by governments (or regulatory authorities), and possibly strengthened by public standards or policies.
- 32. The organisation of bets should be restricted to the results of official and significant sports events, possibly above a certain level.
- 33. Betting operators should ensure transparency of all financial transactions related to betting in order to monitor suspicious bets.
- 34. Suspicious bets should be reported swiftly to competent national and international governmental or non-governmental authorities.
- 35. Betting operators should immediately stop the validation of bets placed on matches for which a high probability of manipulation of sports results has been determined by early warning systems.
- 36. Owners and employees of betting operators should be banned from placing bets.

37. Betting operators should be banned from funding or sponsoring teams or individual competitors if they manage bets placed on competitions in which they are participating.
38. Competitions of sports organisations under investigation or subject to sanctions for manipulation of sports results based on betting should be banned or excluded from the betting offer.
39. Betting operators are invited to adopt self-regulatory rules, among others on:
  - 39.1 the prevention of conflicts of interest for themselves, their owners and employees;
  - 39.2 the prohibition of high-risk bets;
  - 39.3 the limitation of the amounts of certain bets;
  - 39.4 the introduction of additional preventive measures for certain types of bets (e.g. for on-line betting);
  - 39.5 the establishment of early warning systems for identification of suspicious bets;
  - 39.6 mechanisms for sharing collected information with other relevant governmental and non-governmental players;
  - 39.7 development of channels for regular reporting of their findings on manipulation of sports results to the public.
40. Betting operators should increase awareness among their employees on the issue of manipulation of sports results and its consequences through education, training and publicity.

**F. Cooperation of relevant stakeholders in the fight against manipulation of sports results**

41. Cooperation should be developed between sports organisations and betting operators in the fight against manipulation of sports results in order to:
  - 41.1. clarify the respective commitments of both partners to combat manipulation of sports results;
  - 41.2. ensure that the exchange of information is sufficient to ensure that the early warning systems referred to in paragraphs 29, 30 and 34 of Chapter E of these Guidelines allow sports organisations to apply sanctions and other measures from paragraph 20 of Chapter D of these Guidelines.
42. Measures to combat manipulation of sports results must comply with the relevant European data protection standards, particularly in exchanges of information between stakeholders.
43. Governments must recognise sports organisations' regulations as referred to in paragraph 25 of Chapter D of these Guidelines and, where appropriate, support their enforcement by entrusting the implementation of their provisions to a designated governmental or non-governmental sports authority or to a sports organisation;

44. Governments may establish the effective fight against manipulation of sports results as a criterion for the granting of public financial support to sports organisations.
45. Governments may help sports organisations to fund mechanisms for combating the manipulation of sports results either through direct subsidies or grants or by taking the cost of such mechanisms into account when determining the overall subsidies or grants to be awarded to those organisations.
46. Governments should, where appropriate, take steps to ensure that no public financial support is granted to individual sports organisations, athletes and sports officials sanctioned for manipulation of sports results, for the duration of the sanction.
47. The relevant stakeholders are invited to consider establishing a permanent international body for the fight against manipulation of sports results.