

EXPLANATORY STATEMENT 8 of 2010

Amendment to Annex II of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) International Convention Against Doping in Sport of 19 October 2005

Practical and legal effect

1. The treaty matter amends Article 9.1 of Annex II to the UNESCO *International Convention Against Doping in Sport* [2007] ATS 10 (the Convention). Annex II is the Standards for Granting Therapeutic Use Exemptions (SGTUE). The amendment updates the SGTUE to reflect the proposed 2011 World Anti-Doping Agency (WADA) International Standards for Therapeutic Use Exemptions (ISTUE).

2. The main purpose of the SGTUE is to ensure that the process for granting Therapeutic Use Exemptions (TUEs) is harmonised across sports and countries. An exemption grants an athlete permission to use - for therapeutic purposes - a substance or method that might otherwise be prohibited in sport. In Australia, compliance with the SGTUE is mandatory for any athlete who is subject to the National Anti-Doping Scheme. The Australian Sports Drug Medical Advisory Committee (ASDMAC) must apply the SGTUE to all applications for TUEs that it considers.

Nature and timing of the treaty action

3. On 1 October 2010, pursuant to Article 34 of the Convention, the UNESCO Director-General notified States Parties to the Convention of the proposed amendments to the SGTUE in Annex II to reflect the changes made by WADA. Article 34(2) provides that States Parties may object to the proposed amendments within 45 days from the Director-General's written notification. The proposed amendments will come into force unless two thirds of States Parties express an objection. Australia has not objected to the amendments.

4. It is anticipated that the Director-General of UNESCO will write in late November 2010 to all State Parties indicating approval of the amendments to Annex II and confirming that they will come into effect on 1 January 2011.

Reasons Australia took the treaty action

5. Australia's anti-doping efforts take place in a global environment. Pivotal to the global effectiveness of anti-doping measures is the harmonisation across all sports and countries of specific technical and operational aspects of such measures. The Department of the Prime Minister and Cabinet (through Sport Branch, formerly part of the Department of Health and Ageing), the Australian Sports Anti-Doping Authority and ASDMAC were given the opportunity to review the revised ISTUE and all parties were supportive of the changes, which were minor.

6. It is in Australia's interest that the SGTUE reflect the most recent ISTUE issued by WADA. The amendment will enable ASDMAC to process TUEs under the new WADA requirements, and to have Australian TUEs recognised internationally.

Implementing legislation

7. The amendment to the SGTUE does not require legislative amendment.