

EXPLANATORY STATEMENT 3 of 2009

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 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 SGTUE are an integral part of the Convention and are based on the 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 for all applications for TUEs that it considers.

Nature and timing of the treaty action

3. Article 34 of the Convention sets out an expedited mechanism for amending its annexes. Pursuant to this mechanism, following WADA's amendment of its ISTUE, the UNESCO Director-General notified States Parties to the Convention, on 17 December 2009, of the 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 amendments within 45 days from the Director-General's written notification. The amendments will come into force unless two thirds of States Parties express an objection. Australia did not express an objection.

4. On 29 January 2010, the Director General of UNESCO notified all States Parties indicating that the amendments to Annex II were approved and will enter into force on 15 March 2010.

Reasons Australia took the treaty action

5. Australia's anti-doping efforts take place in a global environment. Pivotal to this is the harmonisation across all sports and countries of specific technical and operational aspects of anti-doping measures. 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.

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

Implementing legislation

7. Compliance with the amendment to the SGTUE does not require legislative amendment.