

## Minor treaty actions

### Introduction

- 3.1 Minor treaty actions involve only technical amendments to existing treaties which do not impact significantly on the national interest. Minor treaty actions are presented to the Committee for consideration with a short Explanatory Statement. These treaties are not tabled in the Parliament.
- 3.2 The Committee has the discretion to either formally inquire into minor treaty actions or indicate its acceptance of them without a formal inquiry and report.

### Amendments to the International Convention against Doping in Sport

- 3.3 On 18 November 2014, the Department of Foreign Affairs and Trade referred two minor treaty actions that constitute amendments to the *International Convention against Doping in Sport*:
  - 2014 Amendment to Annex I of the International Convention Against Doping in Sport of 19 October 2005; and
  - 2014 Amendment to Annex II of the International Convention Against Doping in Sport of 19 October 2005.
- 3.4 The Convention was adopted in 2005 as a method of harmonising anti-doping rules across sports and international boundaries. The intent is to ensure that all competitors in a particular sport are covered by the same anti-doping rules.

- 3.5 Amongst other things, the Convention contains two annexes. Annex I, entitled *Prohibited List-International Standard*, identifies the substances and methods of doping which are prohibited. Annex II, entitled *International Standard for Therapeutic Use Exemptions*, outlines the means by which athletes can use medicines on the Prohibited List to treat legitimate medical conditions.<sup>1</sup>

## Annex I amendment

- 3.6 Annex I of the Convention is reviewed annually by the World Anti-Doping Agency (WADA) to ensure the list of prohibited substances is up to date. The amended list is released to the parties to the Convention in September each year, and comes into effect on 1 January the following year.<sup>2</sup>
- 3.7 The Annex I amendment referred is the addition of 'hypoxia inducible factor stabilisers', for example xenon and argon.<sup>3</sup>
- 3.8 A 'hypoxia inducible factor' is a substance that induces cells to act as if they are suffering from a lack of oxygen (hypoxia). Hypoxia causes cells to use oxygen and other materials much more efficiently. The net effect is a body that will make much better use of the resources available to it, improving its performance compared to bodies that have not been subject to induced hypoxia.<sup>4</sup>
- 3.9 Hypoxia inducible factors have been included in Annex I of the Convention for some time.<sup>5</sup>
- 3.10 Recent scientific studies have shown that noble gases, such as argon and xenon, can extend the effects of hypoxia inducible factors by preventing the factors from being removed from the body through the kidneys. In

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1 United Nations Education, Scientific and Cultural Organisation (UNESCO), *Annexes to the Convention*, <<http://www.unesco.org/new/en/social-and-human-sciences/themes/anti-doping/international-convention-against-doping-in-sport/annexes/>>, accessed 19 November 2014.

2 World Anti-Doping Authority (WADA), *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

3 WADA, *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

4 Jelkmann, Wolfgang. 'Xenon Misuse in Sports - Increase of Hypoxia-Inducible Factors and Erythropoietin, or Nothing but „Hot Air“?', *Deutsche Zeitschrift für Sportmedizin*, <<http://www.zeitschrift-sportmedizin.de/en/articles-online/archiv-2014/heft-10/xenon-misuse-in-sports-increase-of-hypoxia-inducible-factors-and-erythropoietin-or-nothing-but-hot-air/>>, accessed 19 November 2014.

5 WADA, *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

this context, the noble gases are referred to as ‘hypoxia inducible factor stabilisers’.<sup>6</sup>

- 3.11 Because of these studies, WADA has proposed the prohibition of hypoxia inducible factor stabilisers.<sup>7</sup>

## Annex II amendment

- 3.12 Annex II of the Convention is reviewed less frequently, and was last amended in 2011. The revised Annex II being considered here was first agreed in 2013, and will come into effect on 1 January 2015.<sup>8</sup>
- 3.13 The revision amends Annex II to clarify the conditions that must be satisfied in order for a Therapeutic Use Exemption (TUE) to be granted and the responsibilities imposed on Anti-Doping Organisations, International Sporting Federations and the World Anti-Doping Agency in the TUE process.<sup>9</sup>
- 3.14 Among other things, the revised Annex II makes clear that international sporting federations are required to recognise TUEs issued by national anti-doping organisations and vice versa if the TUE meets the criteria set out in the Annex.<sup>10</sup>

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6 Jelkmann, Wolfgang. ‘Xenon Misuse in Sports – Increase of Hypoxia-Inducible Factors and Erythropoietin, or Nothing but „Hot Air“?’, *Deutsche Zeitschrift für Sportmedizin*, <<http://www.zeitschrift-sportmedizin.de/en/articles-online/archiv-2014/heft-10/xenon-misuse-in-sports-increase-of-hypoxia-inducible-factors-and-erythropoietin-or-nothing-but-hot-air/>>, accessed 19 November 2014.

7 WADA, *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

8 UNESCO, *Annexes to the Convention*, <<http://www.unesco.org/new/en/social-and-human-sciences/themes/anti-doping/international-convention-against-doping-in-sport/annexes/>>, accessed 19 November 2014.

9 WADA, *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

10 WADA, *Prohibited list*, <<https://www.wada-ama.org/en/what-we-do/prohibited-list>>, accessed 19 November 2014.

