

## EXPLANATORY STATEMENT 6 of 2008

### AMENDMENT, ADOPTED 17 NOVEMBER 2008, TO ANNEX I 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 proposed treaty matter amends Annex I to the UNESCO *International Convention Against Doping In Sport* [2008] ATS 10 (the Convention). Annex I is the 2008 Prohibited List International Standard (the Prohibited List). The Prohibited List identifies the substances and methods of doping prohibited in sport.
2. The amendment updates the Prohibited List to reflect the 2009 Prohibited List that has been adopted by the World Anti-Doping Agency (WADA) in accordance with the guidelines for its annual review set forth under Article 4.1 of the World Anti-Doping Code (the Code).
3. The Amendment has little practical effect in Australia as the specification of prohibited substances under the Australian Government's anti-doping arrangements is based on the current WADA Prohibited List.

#### **Nature and timing of proposed treaty matter**

4. The Prohibited List in Annex I is an integral part of the Convention. Article 34 of the Convention sets out an expedited mechanism for amending its annexes. Pursuant to this mechanism, when WADA modified the Prohibited List, WADA's Director General wrote to the Director-General of UNESCO informing him of the changes. In turn, on 3 October 2008 the UNESCO Director-General notified States Parties to the Convention of the proposed amendments to the Prohibited List in Annex I.
5. Article 34(2) of the Convention provides Parties with 45 days from the Director-General's notification to object to the proposed amendments. Australia did not express an objection. The proposed amendments were deemed approved by the Parties on 17 November 2008. The amendments will enter into force a further 45 days after the Director-General notifies Parties of their approval, in accordance with Article 34(3) of the Convention.

#### **Reasons for Australia to take the proposed action relating to the treaty matter**

6. Amendment of the Prohibited List in Annex I of the Convention harmonises the fight against doping in sport internationally. The amendments provide certainty and consistency for Australian athletes required to comply with WADA's Prohibited List.
7. Discrepancy between the Australian Government agreed Prohibited List (through the Convention) and WADA's Prohibited List would restrict the Australian Sports Anti-Doping Authority's (ASADA) ability to implement the Prohibited List in accordance with the requirements of the Code.

#### **Implementing legislation**

8. Compliance with the Convention does not require further legislative amendment.