

**Joint Standing Committee on Treaties (JSCOT) Public Hearing into the
UNESCO International Convention Against Doping in Sport – Questions on
Notice**

BY: *Gavin Lyon*

Question:

I understand that two states, Queensland and Victoria, have raised specific issues. I would be interested to know what those issues were.

Answer:

The Department of Communications, Information Technology and the Arts (DCITA) provided a copy of a preliminary draft of the Convention to all States and Territories through the Standing Committee on Treaties (SCOT) process in October 2004. Jurisdictions were asked to provide written comments on the draft.

Victoria and Queensland were the only jurisdictions to raise substantive issues. Neither State objected to or expressed concern with the principles of the draft. Rather their comments were of an operational nature. Specifically, they sought clarification on a number of the draft Convention's articles and their application in Australia, in particular the application of the Convention to sub-elite level athletes. The issues raised were largely addressed by officials.

In early August 2005, DCITA provided a copy of the final draft of the Convention to SCOT members for their information and comment if they had any concerns. Victoria was the only jurisdiction that responded, noting that it was yet to be clearly articulated the extent to which the World Anti-Doping Code (the Code) will be applied to sub-elite athletes who are not, in a technical sense, deemed to be subject to doping control programs.

This issues was not covered specifically in the UNESCO Convention because the World Anti-Doping Code leaves this aspect to individual jurisdictions to determine.

The testing provisions of the Code apply to international athletes (as defined by each international sporting federation) and national athletes (as defined by each national anti-doping organisation). In practice, in Australia's case the pool of athletes covered by the Code is established between the Australian Sports Commission and each National Sporting Organisation in the context of finalisation of sports' anti-doping policies. The Australian Sports Drug Agency (ASDA) is funded to provide drug testing and education to athletes in this pool.

To the extent that States and Territories may wish to test any athletes outside this pool, this is a policy and resourcing matter for each jurisdiction (noting that jurisdictions may wish to contract ASDA for such testing).

Question:

I assume that, if they are an elite athlete within a state organisation, they may or may not be under an Australian Government funded organisation as well. Is that a relevant point for the purpose of this convention?

Answer

This issue is not covered specifically in the Convention because the World Anti-Doping Code leaves this aspect to individual jurisdictions to determine.

All Australian Sports Commission (ASC) funded national sporting organisations (NSO) have, and must have, ASC approved World Anti-Doping Code (Code) compliant anti-doping policies. All state and territory institutes and academies of sport have ASC approved Code compliant anti-doping policies.

The application of the NSO Anti-Doping Policy to state sporting organisations and state level athletes depends upon the structure and policy framework of the sport. A state level athlete may be bound by a NSO Anti-Doping Policy.

Any athlete who receives funding and/or assistance from the ASC is bound by the ASC's Anti-Doping Policy. This includes athletes such as Australian Institute of Sport Scholarship holders and recipients of Direct Athlete Support. These athletes may also be bound by their NSO Anti-Doping Policy and state and territory institutes and academy of sport policies.

Question:

My second question is in relation to the funding of article 17. It seems to me that it is somewhat ad hoc. There are no specific funding criteria in terms of the number of dollars that nations would give or be expected to give. Can you comment on that? Are there any annexures that might refer to it? If it is voluntary, some countries will be in a position to contribute more. We may decide, for whatever reason, not to contribute. Were there any discussions about expectations or the like (on funding)?

Answer:

Article 17 of the Convention specifically provides that 'all contributions by state parties and other actors (to the voluntary fund) shall be voluntary'.

There was no formal discussion during the preparation of the Convention on what countries might be expected to contribute to the fund, bearing in mind that under the terms of Article 17, individual countries may choose not to contribute at all.

UNESCO may provide further advice on the Voluntary Fund once the Convention enters into force (following the deposit of the thirtieth instrument of ratification, acceptance, approval or accession).