

EXHIBIT 34

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INTERNATIONAL CONVENTION AGAINST
DOPING IN SPORT

June 27, 2008.--Ordered to be printed

Mr. Biden, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 110-14; EC 6772]

The Committee on Foreign Relations, to which was referred the International Convention Against Doping in Sport, adopted on October 19, 2005 (the ``Convention'') (Treaty Doc. 110-14; EC 6772), having considered the same, reports favorably thereon with one understanding, one declaration, and one condition as indicated in the resolution of advice and consent, and recommends that the Senate give its advice and consent to ratification thereof, as set forth in this report and the accompanying resolution of advice and consent.

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I. Purpose

Flexibility in Implementation

A number of countries in Europe, such as France and Italy, address doping in sport through direct government regulation, which in some cases means legislation that requires compliance by the sports federations or individual athletes with anti-doping rules in those countries. In the United States, and in other countries such as Canada, Australia, and Japan, doping in sport is approached from a different perspective: instead of directly regulating anti-doping in sports, the sports federations are provided with incentives to self-regulate. The Convention recognizes these different approaches in Article 5, which states that the measures used to implement the Convention ``may include legislation, regulation, policies or administrative practices.''

Prohibited Substances and Methods

Article 8 supports Anti-Doping efforts by requiring states to take certain measures to restrict the availability of ``Prohibited Substances and Methods'' in order to restrict their use in sports by athletes unless the use is based on a ``Therapeutic Use Exemption.''. The ``Prohibited Substances and Methods'' and the ``Therapeutic Use Exemptions'' that are referred to in this Article are listed in the two Annexes to the Convention and originate from the Code. The administration notes in its submittal letter that this Article can be implemented by the United States without changing existing U.S. law or policy.\4\ The Prohibited Substances and Methods are mainly controlled substances whose production, movement, importation, distribution, and sale are controlled by the Controlled Substances Act.\5\ A number of the noncontrolled substances on the Prohibited List are subject to provisions of the Food, Drug, and Cosmetic Act\6\ that restrict their use to legitimate medical activities and prohibits trafficking of such substances. In addition, U.S. states have parallel laws that address the trafficking, possession, and use of many of the substances on the Prohibited List. Finally, an increasing number of U.S. states have implemented student drug testing programs and education initiatives to prevent the use of doping substances on the Prohibited List.

\4\See Treaty Doc. 110-14 at X.

\5\21 U.S.C. Sec. 801 et seq.

\6\21 U.S.C. Sec. 301 et seq.

Athlete Support Personnel

Article 9 requires States Parties to take measures, or to encourage sports organizations and anti-doping organizations to take anti-doping measures, aimed at athlete support personnel. Athlete support personnel are defined in Article 2 to be a ``coach, trainer, manager, agent, team staff, official, medical or paramedical personnel working with or treating athletes participating in or preparing for sports competition.''. The United States satisfies this requirement through its support of USADA, which has policies and testing protocols that are consistent with the Code and which provide for specific

sanctions and penalties for athlete support personnel if and when they violate the Code.

Nutritional Supplements

Article 10 requires States Parties to encourage producers and distributors of nutritional supplements to establish best practices in the marketing and distribution of nutritional supplements, including by providing information regarding their analytic composition. The administration notes in its submittal letter that this Article can be implemented by the United States without changing existing U.S. law or policy.\7\ The Dietary Supplement Health Education Act of 1994\8\ requires that dietary supplement manufacturers ensure that a dietary supplement is safe before it is marketed, and that its product label information is truthful and not misleading. The law sets forth post-marketing requirements that include monitoring safety, such as adverse event reporting. In June 2007, the Food and Drug Administration established regulations requiring good manufacturing practices for dietary supplements that are designed to ensure that such supplements are produced in a quality manner, do not contain contaminants or impurities, and are accurately labeled.

\7\See Treaty Doc. 110-14 at XI.
 \8\Pub. L. 103-417.

Facilitating Doping Controls for Sports Competitions

Article 12 obligates States Parties to facilitate the anti-doping-control activities of sports organizations and anti-doping organizations, such as the testing of athletes with no-advance notice by duly authorized doping-control teams and access to accredited doping laboratories for the purpose of doping-control analysis. The United States would meet these obligations through its support of cooperation among anti-doping organizations, such as the Association of National Anti-Doping Organizations and WADA's Central American Regional Anti-Doping Organization, and the United States' support of USADA, which works to facilitate the doping-control activities contemplated in this Article.

International Cooperation

Article 16 obligates States Parties to take certain steps to facilitate international cooperation in anti-doping testing and control. Parties are only obligated to take steps under this Article to the extent that such steps are ``appropriate and in accordance with domestic law and procedures.'' No changes in existing U.S. law or policy would be necessary to meet the obligations that would arise under this Article. The United States currently facilitates such international cooperation through its support of the activities of USADA, which actively engages in anti-doping testing cooperation with appropriate anti-doping organizations in other countries that are compliant with the Code.

Education and Training

Article 19 of the Convention obligates States Parties, within their means, to support, devise, or implement education and training programs on anti-doping. The United States currently funds a number of programs that would satisfy this requirement. For example, the United States supports two school-based steroid education programs: the ATLAS (Adolescents Training and Learning to Avoid Nutrition Alternatives) program and the ATHENA (Athletes Targeting Healthy Exercise and Nutrition Alternatives) program. In addition, the United States supports anti-doping education through its support of USADA, which traditionally directs more than ten percent of its annual budget toward education programs targeting schoolchildren, emerging elite athletes, coaches, and parents. The United States also provides federal grant funds to operate student drug testing programs and education initiatives, such as activities undertaken by the Department of Education's Office of Safe and Drug-Free Schools.

Voluntary Fund

Article 17 establishes a Voluntary Fund, which can be used to assist States Parties with the implementation of their obligations under the Convention and for the functioning costs of the Convention, which includes the operational costs of the Secretariat. See Articles 18 and 32.

Research

Many of the substances and methods used in doping can have a damaging impact on the health of athletes. As the executive branch explained in response to the committee's questions, ``[t]he dangers of anabolic steroids for nonmedical use, for example, are becoming increasingly well known. As science evolves and athletes turn to substances such as human growth hormone and gene doping, the health consequences are not only potentially grave, but often not fully known.'' In order to understand the health risks involved and in order to be aware of the next generation of doping substances and methods, it is crucial that scientific research in this field be encouraged, conducted and shared.

Articles 24-27 focus on research that is relevant to the fight against doping in sport. Article 24 requires States Parties ``within their means'' to encourage and promote anti-doping research in cooperation with sports and other relevant organizations on (a) prevention, detection methods, behavioral and social aspects, and the health consequences of doping; (b) ways and means of devising scientifically based physiological and psychological training programs; and (c) the use of emerging substances and methods arising from scientific developments. Article 25 requires, among other things, that States Parties ensure that such research complies with internationally recognized ethical practices and is undertaken with adequate precautions to prevent the results of the research from being used for doping purposes. Article 26 requires States Parties to share, where appropriate and subject to national and international law, the results of their research with other Parties and with WADA. Article 27 requires States Parties to encourage members of the scientific and medical communities to carry out sport science research in accordance with the principles of the Code and to encourage

sports organizations and athlete support personnel within their jurisdiction to implement such research.

The United States currently supports and promotes research on anti-doping consistent with the requirements laid out in these articles. For example, the United States already funds significant research related to anti-doping both directly and through USADA. The United States also supports anti-doping research activities through the National Institute on Drug Abuse (NIDA), which is one of the National Institutes of Health (NIH), and the Drug Enforcement Administration. The United States has also, through the Office of National Drug Control Policy, promoted the sharing of research results by coordinating research collaboration between WADA's Science and Research Development and officials from NIH, NIDA, and the Food and Drug Administration. Finally, the United States encourages and directly supports sports science research by organizations such as the American College of Sports Medicine, the American Medical Association, and other medical and public health groups.

Monitoring

The monitoring mechanism for this Convention is minimal: States Parties are obligated to report to the Conference of Parties every two years on the measures taken by them to implement the Convention. The Conference of the Parties can expand the monitoring mechanism, but the Convention provides that "[a]ny monitoring mechanism or measure that goes beyond [the biennial report] shall be funded through the Voluntary Fund. . . ." As a result, it is unlikely that the monitoring mechanism will be expanded substantially beyond the reporting requirement described above.

B. ANNEXES AND APPENDICES

The Convention consists of its main text, two annexes (The Prohibited List International Standards and the Therapeutic Use Exemptions), and three appendices (the World Anti-Doping Code, the International Standards for Laboratories, and International Standards for Testing).

The two Annexes, the Prohibited List International Standards and the Therapeutic Use Exemptions, are technical documents that are an integral part of the Convention. There are two possible procedures through which the Annexes can be amended. States Parties may propose amendments through the standard amendment procedure set forth in Article 33 or WADA can, under certain circumstances, propose amendments to the Annexes through a fast-track amendment procedure as set forth in Article 34.

Fast-Track Procedure for Amending Annexes

In accordance with Article 34, if WADA modifies its own Prohibited List or the Standards for Granting Therapeutic Use Exemptions, it may inform the Director-General of UNESCO of the changes adopted by WADA and the Director-General would then circulate to States Parties the changes as proposed amendments to the relevant Annexes to the Convention. States Parties have 45 days within which to object to the adoption of such an amendment. Unless two-thirds of the States Parties express