

**UNODC responses to questions in follow-up of the
5th Intersessional Meeting on 23 September 2019
submitted after 19 August 2019**

5.5 Cannabidiol Preparations	
United States	<p>An essential element of recommendation 5.5, as described by the WHO/ECDD during the intersessional meeting, is not reflected in the recommendation text submitted to the Secretary General. Specifically, the text of the recommendation pertaining to cannabidiol preparations does not specify that the 0.2% delta-9-THC threshold is intended to be calculated on a dry weight basis relative to the dried plant material, as has been explained by WHO/ECDD. Pursuant to the Single Convention on Narcotic Drugs, the options available to the Commission in such a case are limited: we can vote to approve the recommendation, vote to reject it, or delay acting until the WHO/ECDD sends the Commission text that accurately reflects the WHO/ECDD intent.</p> <p>1) It has been suggested that the CND can amend the recommendation to fix a technical omission - Could the UNODC Secretariat clarify? Is there any precedent that could be cited?</p> <p>2) If the Commission does not appear to have the authority to correct a WHO/ECDD recommendation submitted to it, could the WHO/ECDD at its next meeting adjust such a recommendation and send it to the CND before the March meeting?</p> <p>3) Alternatively, is there another way to modify the text of the recommendation to remove the ambiguity?</p>

1. While more information would be needed on the nature of the “technical omission”, the 1961 Single Convention on Narcotic Drugs does not provide for a scenario in which the Commission could amend a recommendation by the WHO. It would be important to ensure that the treaty roles of the WHO and of the Commission are observed. Under article 3 of the 1961 Convention, the Commission “may, in accordance with the recommendation of the World Health Organization”, decide that the substance shall be added to one of the schedules, or that schedules should be amended by transferring a drug between Schedules I and II or by deleting a drug or a preparation from a Schedule. There is no precedent in which the Commission has modified the text of a recommendation by the WHO.

2. It would be possible and up to the WHO to consider whether it would find necessary to modify the text of its recommendations. Until the time that new or modified recommendations on the same subject are made, the Commission would be expected to act on the recommendations that have been communicated to it. Before taking a vote to place a substance under international control or to reschedule a substance, according to recommendations that have been received, the Commission may seek further information from the WHO or from other appropriate sources. With regard to dronabinol, in a proceeding under the 1971 Convention, the Commission has taken in the past decision 50/2, by which it decided not to vote on the recommendation of the WHO and to request the WHO to undertake further review of dronabinol and its stereoisomers when additional information became available. While, differently from the 1971 Convention, the option to seek further information is not explicitly addressed

in the text of the 1961 Convention, there would be no element to prevent the Commission from taking that course of action, if it so decided.

3. Under article 3, paragraphs 3 to 6, of the 1961 Convention, the Commission is required to take decisions on recommendations of the WHO as presented to it. This may include a decision not to vote on a given recommendation. The Commission does not have a mandate to modify the recommendations by the WHO. However, the Commission may make interpretative decisions, under its policy-making authority, to clarify issues raised in recommendations, or even arising from the interpretation and application of the international drug control conventions. Such decisions would not be scheduling decisions per se, and could serve as non-binding guidance. It is also possible for a State Party to initiate new scheduling proceedings pursuant to article 3(1) of the 1961 Convention.