

Commission on Narcotic Drugs, 62nd session

4th Intersessional Meeting

Preparations for consideration by the Commission of the proposed scheduling recommendations by the World Health Organization on cannabis and cannabis-related substances

Statement by Stefano Berterame, Secretariat of the International Narcotics Control Board

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Excellency Ambassador Bakhet thank you for giving me the floor. Distinguished delegates.

I would like to clarify that I will provide some initial considerations from the INCB in relation to the implications of the ECDD recommendations for the work of the Board.

The Board is aware of the process that led the ECDD to submit the recommendations on cannabis and cannabis-related substances. The Board has been present as observer at the meetings of the ECDD that have discussed the recommendations although not in the closed sessions of the Committee.

At its 125th session in May 2019, the Board was appraised about the recommendations and had some initial discussions, but it has decided to review thoroughly the implications of the recommendations for the work of the Board at its 126th session in November 2019.

INCB is not given any formal role under the procedure outline in article 3 of the Single Convention but it must give effects to the decision of the Commission in the performance of its treaty function.

I would like therefore to provide some clarification from the Secretariat viewpoint only in relation to this specific treaty-based function.

I would like to address the recommendations one by one and try also to address, if possible, some of the requests of clarifications by Member States in which the INCB is also mentioned.

5.1 Cannabis and cannabis resin

The Expert Committee on Drug Dependence (ECDD) recommends that cannabis and cannabis resin be deleted from Schedule IV of the 1961 Single Convention on Narcotic Drugs. The deletion of cannabis and cannabis resin from Schedule IV would affect the possible implementation of stricter control measures at the national level, which are described in article 2, paragraph 5 of the 1961 Convention.

However, if the above recommendation is endorsed by the Commission on Narcotic Drugs, control measures at the international level will not change. Cannabis and cannabis resin will continue to be subject to Schedule I control measures. The reporting requirements for Governments under the provisions of the Convention will not change. Estimates and statistics are mandatory for all drugs in Schedule I and will continue to be submitted by Governments. The Board can therefore continue to monitor the use of these two drugs and will be in a position to anticipate future increases in their use (through estimates) and analyse past developments and potential diversion (through statistics).

5.2 Dronabinol (delta-9-tetrahydrocannabinol; Δ 9-THC) and its stereoisomers

The ECDD recommends that dronabinol (delta-9-tetrahydrocannabinol; Δ 9-THC) and its stereoisomers should be added to Schedule I to the 1961 Single Convention and deleted from Schedule II of the 1971 Convention on Psychotropic Substances.

Endorsement of this recommendation by the Commission on Narcotic Drugs will result in some changes in the control of these drugs. Instead of assessments which are required for drugs in Schedules II, III and IV of the 1971 Convention, pursuant to some ECOSOC resolutions, Governments will need to submit estimates, pursuant to article 19 of the 1961 Convention. The mandate to submit estimates is stricter than for assessments, as it is a treaty mandate. Submitted estimates are subject to confirmation by the Board and Governments must furnish estimates annually (instead of three-year intervals under the assessment system).

If cannabis and its active principles are controlled under the same Convention, this will facilitate the control and reporting at the level of Governments as the same set of control measures will apply to cannabis, cannabis resin, dronabinol and its stereoisomers as well as tetrahydrocannabinol and its stereoisomers (as per the next recommendation). This will facilitate the work of the Board to monitor the global situation and to provide Governments with a comprehensive overview of the global production, consumption and trade of cannabis and its active components.

5.3 Tetrahydrocannabinol (isomers of delta-9-tetrahydrocannabinol)

The ECDD recommends that tetrahydrocannabinol and its stereoisomers should be added to Schedule I to the 1961 Single Convention and deleted from Schedule I of the 1971 Convention on Psychotropic Substances.

As for previous recommendations, the endorsement of this recommendation by the Commission, will result in a number of additional control measures required for States under the 1961 Convention. One of these requirements will be that Governments will have to submit estimates for these isomers. With the addition of these substances to the 1961 Convention, the control of cannabis and its active principles will be in one schedule of the 1961 Convention and, as mentioned earlier, it would facilitate the reporting and monitoring requirements both for Governments and the Board.

5.4 Extracts and tinctures of cannabis

The ECDD recommends that extracts and tinctures of cannabis be deleted from Schedule I of the 1961 Convention.

The secretariat notes that the lack of a definition of extracts and tinctures has not facilitated control over these substances. At the time of the adoption of the Single Convention, extracts and tinctures may have been small in number and subject to a very limited use in a few countries. With the advent of a multitude of preparations made from the cannabis plant over the past years and their international trade across borders with different brand names and packaging and different contents, the use of such a broad and general category that fits a large number of cannabis-based drugs may no longer be adequate to ensure proper control.

However, this broad category if retained could be used to cover intermediate products of cannabis or it could allow the control of preparations with cannabinoids other than those explicitly listed in the schedule. This, however, would require a clearer and unequivocal operational definition of this category to be agreed upon by Member States to avoid differences in understanding of the drugs under control

5.5 Cannabidiol preparations: Not under international control if not more than 0.2 per cent THC

The ECDD recommends that cannabidiol preparations not be under international control if they contain no more than 0.2 per cent of Δ^9 -THC and therefore recommends that a footnote be added to Schedule I of the 1961 Convention to read: "Preparations containing predominantly cannabidiol and not more than 0.2 per cent of Δ^9 -THC are not under international control".

The main concern of the secretariat of the INCB in regard to this recommendation relates to its practical implementation at the national level. In most countries, chemical analysis down to the required threshold will not be possible because of lack of access to appropriate identification techniques. In those countries where chemical analysis to the required accuracy of 0.2 per cent of THC is possible, it might not be feasible, or considered to be a good use of resources and may not be employed.

In addition, this recommendation will also give rise to an important question on the control of cannabis that is being cultivated for the extraction of CBD to be used for mentioned CBD preparations.

As a way of reference, the Board has asked countries cultivating opium poppy variety rich in noscapine (an alkaloid not under international control) to report cultivation of that variety because of the presence of morphine content in that variety.

According to article 28 of the 1961 Convention, States parties may permit the cultivation of cannabis for authorized medical and scientific purposes. Parties that permit such cultivation have an obligation to establish control measures in accordance with the Convention. In addition, the 1961 Convention limits the cultivation of cannabis for industrial purposes to fibre and seed.

The cultivation of cannabis for the extraction of CBD will need to be monitored under the provisions of the Single Conventions because it does not meet the definition

of article 28 (2) because the cultivation cannot be considered as being done “for industrial purposes” as specified in the Single Convention. Also, cannabis cultivated for the extraction of CBD will have some THC content and this will have to be controlled in accordance with its scheduling.

Romania on behalf of the State Parties also members of the European Union asked about the import and export of Cannabidiol API in various jurisdictions.

If this recommendation is endorsed by the Commission on Narcotic Drugs, the preparations described in the recommendation will not be subject to any international control and it will be up to national Government authorities to establish the criteria for the use and distribution of such preparations. The wording of the recommendation, referring to “preparation”, is also likely to create confusion among competent national authorities.

5.6 Pharmaceutical preparations of cannabis and dronabinol (delta-9-tetrahydrocannabinol)

The ECDD recommends that preparations containing Δ 9-THC (dronabinol), produced either by chemical synthesis or as a preparation of cannabis, that are compounded as pharmaceutical preparations with one or more other ingredients and in such a way that delta-9-tetrahydrocannabinol (dronabinol) cannot be recovered by readily available means or in a yield which would constitute a risk to public health, be added to Schedule III of the 1961 Convention on Narcotic Drugs.

It is not clear to the secretariat to which preparations this would apply. The term “compounded pharmaceutical preparations” is applicable to a large number of preparations. It is not defined what “readily available means”. The convention states that if the drug in the preparations “is not readily recoverable”, the Commission may, in accordance with the recommendation of the World Health Organization, add that preparation to Schedule III.

If this recommendation is endorsed by the Commission on Narcotic Drugs, the inclusion of these drugs in Schedule III will eliminate the need for controls, such as those applicable to the international trade of these preparations but not for the controlled substance contained in the preparations (Δ 9-THC). Manufacture of Δ 9-THC will need to be monitored and Governments will have to report statistics on its utilization for Schedule III preparations.

The endorsement of the recommendations made under sections V and VI will reduce controls over most preparations containing THC and CBD. Should Member States decide to endorse them, additional guidance would need to be provided to ensure a common understanding and uniform application of the requirements of the conventions by Member States.
