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Implementation of the international drug control
treaties: other matters arising from the
international drug control treaties

Conference room paper submitted by the Delegation of the
European Union to the United Nations (Vienna)**

The attached document has been submitted by the Delegation of the European Union to the United Nations (Vienna) under agenda item 5(e) at the reconvened sixty-third session of the Commission on Narcotic Drugs.

* [E/CN.7/2020/1/Add.1](#).

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**Judgment of the Court of Justice of the European Union
in case C-663/18 (“Commercialisation du cannabidiol (CBD)”)
(ECLI:EU:C:2020:938)**

In a judgment of 19 November 2020¹ in the area of free movement of goods, the Court of Justice of the European Union (EU), the highest judicial authority of the EU, examined the question whether cannabidiol (CBD) is covered by the 1961 United Nations Single Convention on Narcotic Drugs, as amended by the 1972 Protocol.

The Court found “*that a literal interpretation of the provisions of the Single Convention might lead to the conclusion that, in so far as CBD is extracted from a plant of the Cannabis genus and that plant is used in its entirety – including its flowering or fruiting tops – it constitutes a cannabis extract within the meaning of Schedule I of that convention and, consequently, a ‘drug’ within the meaning of Article 1(1)(j) of that convention*” (point 71 of the judgment).

However, the Court considered that “*since CBD does not contain a psychoactive ingredient in the current state of scientific knowledge [...], it would be contrary to the purpose and general spirit of the Single Convention to include it under the definition of ‘drugs’ within the meaning of that convention as a cannabis extract*” (point 75 of the judgment).

The Court therefore concluded that CBD is not a “drug” within the meaning of the United Nations Single Convention on Narcotic Drugs (point 76 of the judgment).

The Court thus proceeded to the assessment of the compatibility of the national legislation at issue in the main proceedings with Articles 34 and 36 of the Treaty on the Functioning of the European Union² and held that they “*must be interpreted as precluding national legislation which prohibits the marketing of CBD lawfully produced in another Member State when it is extracted from the Cannabis sativa plant in its entirety and not solely from its fibre and seeds, unless that legislation is appropriate for securing the attainment of the objective of protecting public health and does not go beyond what is necessary for that purpose*” (point 96 of the judgment). The Court leaves it to the referring court to make the latter assessment.

¹ Case C-663/18 [(Commercialisation du cannabidiol (CBD))], ECLI:EU:C:2020:938, <http://curia.europa.eu/juris/document/document.jsf?text=&docid=233925&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=15113594>.

² These articles regulate quantitative restrictions and prohibitions on imports and exports between Member States.