United Nations E/CN.7/2014/9

Economic and Social Council

Distr.: General
7 January 2014

Original: English

Commission on Narcotic Drugs
Fifty-seventh session
Vienna, 13-21 March 2014
Item 10 (b) of the provisional agenda*
Implementation of the international drug control treaties: changes in the scope of control of substances

Changes in the scope of control of substances

Note by the Secretariat

Summary

The present document contains a recommendation for consideration by the Commission on Narcotic Drugs pursuant to the international drug control treaties.

Pursuant to article 12, paragraph 13, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Commission is to review periodically the adequacy and propriety of Tables I and II of the Convention. Accordingly, the Commission will have before it, for review, the information transmitted by the International Narcotics Control Board pursuant to article 12, paragraph 4, of the 1988 Convention with regard to the assessment of the substance *alpha*-phenylacetoacetonitrile (APAAN) and, for consideration, the recommendation of the Board that APAAN be included in Table I of the 1988 Convention.

* E/CN.7/2014/1.

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I. Consideration of a notification from the International Narcotics Control Board concerning scheduling under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

1. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] in its article 12, paragraph 2, provides as follows:

> If a Party or the Board has information which in its opinion may require the inclusion of a substance in Table I or Table II, it shall notify the Secretary-General and furnish him with the information in support of that notification. The procedure described in paragraphs 2 to 7 of this article shall also apply when a Party or the Board has information justifying the deletion of a substance from Table I or Table II, or the transfer of a substance from one Table to the other.

2. On 20 February 2013, the Board transmitted to the Secretary-General a notification regarding the possible inclusion of *alpha*-phenylacetoacetonitrile (APAAN) in Table I of the 1988 Convention, including relevant information in support of that notification.

3. In accordance with the provisions of article 12, paragraph 3, of the 1988 Convention, the Secretary-General transmitted to all Governments, by note verbale NAR/CL.2/2013 of 8 March 2013, all relevant information submitted by the Board and a questionnaire on APAAN, requesting comments from Governments concerning the notification and all supplementary information that might assist the Board in carrying out its assessment.

4. In response to that note, as at 31 October 2013, 42 States had submitted supplementary information and comments relevant to the possible inclusion of APAAN in Table I of the 1988 Convention.

5. On 28 November 2013, the Board transmitted to the Commission on Narcotic Drugs a notification recommending that APAAN be included in Table I of the 1988 Convention (see annex).

II. Action to be taken by the Commission on Narcotic Drugs

6. In view of the supplementary information and comments received from 42 States relevant to the possible inclusion of APAAN in Table I of the 1988 Convention, the Board is of the opinion that the international control of APAAN is required in order to limit its availability for illicit drug manufacture and thus to reduce the quantity of amphetamine and methamphetamine manufactured illicitly from that substance. Therefore, the Board recommends that APAAN be placed under control of the 1988 Convention.

7. In the light of the above, and considering that APAAN exists in the form of two optical isomers, which are equally suitable for conversion into 1-phenyl-2-propanone (P-2-P), the Board recommends placing APAAN and its optical isomers into Table I of the 1988 Convention.

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[1] United Nations, *Treaty Series*, vol. 1582, No. 27627.

Annex

Notification dated 28 November 2013 from the President of the International Narcotics Control Board to the Chair of the Commission on Narcotic Drugs at its fifty-seventh session concerning the inclusion of *alpha*-phenylacetoacetonitrile in Table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

1. The President of the International Narcotics Control Board has the honour to inform the Chair of the Commission on Narcotic Drugs that the Board, in conformity with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, article 12, paragraphs 4 and 5, has completed its assessment of *alpha*-phenylacetoacetonitrile (APAAN) for possible inclusion in Table I of the 1988 Convention.

2. The Board finds that APAAN is frequently used in the illicit manufacture of amphetamine-type stimulants, namely amphetamine and methamphetamine, and that the volume and extent of the illicit manufacture of amphetamine-type stimulants create serious public health or social problems, so as to warrant international action. The Board is therefore recommending that APAAN, including its optical isomers, be included in Table I of the 1988 Convention.

3. The assessment, findings and recommendations of the Board in respect of the substance (see appendix) have been prepared for submission to the Commission at its fifty-seventh session. Information about APAAN has also been published in the 2009,[a] 2010,[b] 2011[c] and 2012[d] reports of the Board on the implementation of article 12 of the 1988 Convention, pursuant to paragraph 13 of that article.

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[a] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2009 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (United Nations publication, Sales No. E.10.XI.4).

[b] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2010 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (United Nations publication, Sales No. E.11.XI.4).

[c] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2011 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (United Nations publication, Sales No. E.12.XI.4).

[d] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2012 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (United Nations publication, Sales No. E.13.XI.4).

Appendix

Assessment and recommendations

A. Background

1. At its 106th session, in February 2013, concerned over the increasing number of incidents involving *alpha*-phenylacetoacetonitrile (APAAN), the International Narcotics Control Board decided to initiate and pursue the scheduling process for APAAN. On 20 February 2013 it transmitted to the Secretary-General of the United Nations a notification to that effect, containing the relevant information at its disposal.

2. In accordance with the provisions of article 12, paragraph 3, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Secretary-General sent that notification, including the relevant information and a questionnaire, by note verbale NAR/CL.2/2013, dated 8 March 2013, to all States Parties and to other States, requesting that they communicate before 14 June 2013 their comments and all supplementary information that might assist the Board in carrying out its assessment.

B. Assessment

3. Article 12, paragraph 4, of the 1988 Convention stipulates the factors that the Board is to consider when assessing a substance for possible control:

> If the Board, taking into account the extent, importance and diversity of the licit use of the substance, and the possibility and ease of using alternate substances both for licit purposes and for the illicit manufacture of narcotic drugs or psychotropic substances, finds:
>
> (a) That the substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance;
>
> (b) That the volume and extent of the illicit manufacture of a narcotic drug or psychotropic substance creates serious public health or social problems, so as to warrant international action,
>
> it shall communicate to the Commission an assessment of the substance, including the likely effect of adding the substance to either Table I or Table II on both licit use and illicit manufacture, together with recommendations of monitoring measures, if any, that would be appropriate in the light of its assessment.

4. In making its assessment in accordance with article 12, paragraph 4, of the 1988 Convention, the Board had at its disposal the information contained in its notification to the Secretary-General, as well as the comments and supplementary information received from governments pursuant to article 12, paragraph 3. The 42 governments that had responded stated either direct support for, or registered no objection to, the scheduling of APAAN.

5. In conducting its assessment, the Board has taken the following factors into consideration:

(a) APAAN is an immediate precursor of 1-phenyl-2-propanone (P-2-P), a substance in Table I of the 1988 Convention that is used in the illicit manufacture of amphetamine and methamphetamine, which, together with their salts and isomers, are included in Schedule II of the Convention on Psychotropic Substances of 1971;

(b) APAAN has no known legitimate use except — in small amounts — for purposes of research, development and laboratory analysis; there are no known industrial applications in which APAAN is used as a starting material, and there is no documented regular legitimate commerce or trade in APAAN other than in small amounts for research purposes;

(c) The current increase in the frequency of APAAN seizures and the amounts seized is related to traffickers' need to find an alternate precursor, as controls over the primary precursors, namely P-2-P and phenylacetic acid, but also ephedrine and pseudoephedrine, all of which are listed in Table I of the 1988 Convention, have improved.

C. Findings

6. In view of the above-mentioned factors, the Board finds that:

(a) The volume and extent of public health or social problems caused by the abuse of illicitly manufactured amphetamine and methamphetamine remain issues that warrant international action;

(b) APAAN is a substance that is highly suitable for the illicit manufacture of P-2-P and, subsequently, amphetamine and methamphetamine. Incidents (e.g. illicit manufacture and trafficking) involving APAAN have been known since 2006, with increasing frequency and amounts reported since 2012, especially in Europe, although countries in other regions have also been affected. Given the ease of the illicit manufacturing process, the extent of illicit use may spread further in other regions;

(c) There is no legitimate manufacture of APAAN as a final commodity, although it is an in-process intermediate in the legitimate manufacture of P-2-P, and may also be involved in the manufacture of some other chemicals. However, governments did not quantify the scale of use of such other chemicals and did not indicate alternate substances that are being used for that same purpose;

(d) Trade in APAAN for legitimate commercial purposes is limited to very small amounts for research and development. Some countries that identified imports of APAAN in the past three years did so on the basis of the substance not being controlled and hence shipments not being illicit, although not necessarily for legitimate uses;

(e) No government foresaw difficulties in supporting the scheduling of APAAN under the 1988 Convention. The availability of APAAN for limited research and development purposes is determined by the controls implemented by governments at the national level. Those controls should be structured in a manner that ensures the availability and distribution of APAAN for relevant legitimate uses;

(f) Scheduling of APAAN under the 1988 Convention would have no adverse effects on the availability of the substance for legitimate purposes.

D. Recommendations

7. The Board is of the opinion that the international control of APAAN is required in order to limit its availability for illicit drug manufacture and thus reduce the quantity of amphetamine and methamphetamine manufactured illicitly from that substance. Those controls would have no adverse effect on its availability for any of the known research and development purposes, given the very limited legitimate market for, and trade in, the substance. In view of the above, the Board recommends that APAAN be placed under control of the 1988 Convention.

8. Currently, the only difference between Table I and Table II of the 1988 Convention is the possibility for governments to invoke their right under article 12, paragraph 10 (a), of that Convention to request pre-export notifications. The scheduling of APAAN in Table I of the 1988 Convention would make it possible for governments to request pre-export notifications, which would in turn allow the monitoring of manufacture of and trade in the substance.

9. In the light of the above, and considering that APAAN exists in the form of two optical isomers, which are equally suitable for conversion into P-2-P, the Board recommends placing *alpha*-phenylacetoacetonitrile (APAAN) and its optical isomers in Table I of the 1988 Convention.