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Implementation of the international drug control treaties: changes in the scope of control of substances

Changes in the scope of control of substances: proposed scheduling recommendations by the World Health Organization

Note by the Secretariat

Addendum

I. Consideration of a notification from the World Health Organization concerning scheduling under the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol

1. As stated in document E/CN.7/2018/10, pursuant to article 3, paragraphs 1 and 3, of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, the Director-General of the World Health Organization (WHO), in correspondence dated 27 November 2017, notified the Secretary-General that WHO recommended that carfentanil should be placed in Schedules I and IV of the 1961 Convention and that ocfentanil, furanylfentanyl, acryloylfentanyl (acrylfentanyl), 4-fluoroisobutyrfentanyl (4-FIBF, pFIBF), and tetrahydrofuranylfentanyl (THF-F) should be placed in Schedule I of the 1961 Convention.

2. In accordance with the provisions of article 3, paragraph 2, of the 1961 Convention, the Secretary-General transmitted to all Governments, on 28 December 2017 and 18 January 2018, a note verbale, annexing the notification and the information submitted by WHO in support of that recommendation.

3. As at 12 February 2018, the Governments of the following 21 Member States had provided comments considered to be relevant to the recommended scheduling of those substances: Algeria, Argentina, Australia, Bhutan, Chile, Georgia, Germany, Hungary, Indonesia, Israel, Lebanon, Lithuania, Mexico, Morocco, Myanmar, Oman, Spain, Sri Lanka, Switzerland, Turkmenistan and Ukraine.

* E/CN.7/2018/1.

4. The Government of Algeria indicated its support for the recommendations made by WHO with regard to the substances to be scheduled under the 1961 Convention based on the available evidence of their abuse, the serious risks they posed to public health and the lack of any recognized therapeutic use.

5. The Government of Argentina indicated that it had no objection to the inclusion of carfentanil, ocfentanil, furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl and tetrahydrofuranylfentanyl in Schedules I and IV of the 1961 Convention as amended by the 1972 Protocol. Carfentanil was considered a narcotic drug in Argentina because it was included in annex I to decree No. 69/2017. Ocfentanil, furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl and tetrahydrofuranylfentanyl would be added to the schedule of narcotic drugs at the next update of the decree, which was currently under preparation.

6. The Government of Australia reported that it supported the inclusion of carfentanil in Schedules I and IV of the 1961 Convention, and of ocfentanil, furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl, and tetrahydrofuranylfentanyl in Schedule I of the 1961 Convention. In the event that these substances were scheduled under the 1961 Convention and the 1971 Convention, Australia would make a minor amendment to the Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958 to comply with Article 31 of the 1961 Convention. The substances WHO had recommended for scheduling under the 1961 Convention had no recognized medicinal use in Australia and were subject to criminal penalties for importation into Australia under the Criminal Code Act 1995. While in support of placing the substances under international control, the Government of Australia noted the challenges surrounding their identification by chemical analysis and the reliability of statistics on seizures and detections of all new psychoactive substances. The rapidly evolving drug scene could overtake the reporting capabilities and procedures of agencies and thus affect the integrity of detection data.

7. The Government of Bhutan indicated that it had no comments on the recommendations made by WHO with regard to the substances to be scheduled under the 1961 Convention.

8. The Government of Chile indicated its support for the recommendations made by WHO with regard to the substances to be scheduled under the 1961 Convention. It considered the scheduling necessary to reduce the supply of fentanyl analogues. It also noted that fentanyl analogues were among the most problematic synthetic drugs worldwide, especially because of the number of deaths associated with their consumption. It further noted the structural variability of these substances and the inclusion of many of them in the early warning advisory on new psychoactive substances.

9. The Government of Georgia indicated its support for the recommendations made by WHO.

10. The Government of Germany reported that it had no objections to the scheduling recommended by WHO and noted that all the substances mentioned were or would be covered by the German Law on Narcotic Drugs. This position was subject to a decision pending at the Council of the European Union, which stated that States members of the European Union were to support the scheduling of all the substances mentioned under the respective schedules of the 1961 Convention.

11. The Government of Hungary indicated its support for the scheduling of the substances, recommended by WHO, under the 1961 Convention. In Hungary, they were classified as new psychoactive substances.

12. The Government of Indonesia indicated its support for the recommendations of WHO to place carfentanil on Schedules I and IV of the 1961 Convention, and to place ocfentanil, furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl and tetrahydrofuranylfentanyl on Schedule I of the 1961 Convention.

13. The Government of Israel indicated its support for the scheduling recommended by WHO. The substances under consideration were already included in the Dangerous Drugs Ordinance, either individually or by virtue of their being structural derivatives of substances individually controlled. Regarding fentanyl, the Government was completing the legal steps required for its inclusion in the Dangerous Drugs Ordinance.

14. The Government of Lebanon indicated that, while the substances WHO had recommended for scheduling under the 1961 Convention had never been reported and were therefore not scheduled in Lebanon, it would consider the decision to be made by the Commission on Narcotic Drugs and its recommendation, if any, to schedule the substances under consideration.

15. The Government of Lithuania reported that it supported the proposal and would not have any comments on the information provided by the United Nations Office on Drugs and Crime (UNODC). All the substances proposed for scheduling had already been included in the lists of narcotic and psychotropic substances under order No. 5 of the Ministry of Health of Lithuania of 6 January 2000.

16. The Government of Mexico noted that it had no objection to the scheduling of the substances, recommended by WHO, under the 1961 Convention.

17. The Government of Morocco noted that its Ministry of Health subscribed to the approach that the protection of public health and the rational use of the substances in question should be ensured with a view to working towards the recognition and consolidation of the objectives of the international drug control conventions.

18. The Government of Myanmar indicated its support for the recommendations made by WHO with regard to the substances to be scheduled under the 1961 Convention. Myanmar noted that the substances under consideration were neither being used in laboratories nor in the industrial sector in Myanmar, and that they were likely to be abused and therefore constituted a public health and social problem.

19. The Government of Oman indicated its agreement with the recommendations made by WHO on the substances to be scheduled under the 1961 Convention.

20. The Government of Spain reported that it was in favour of the recommendations made by WHO with regard to the substances to be scheduled under the 1961 Convention. It reported that ocfentanil and furanylfentanyl had first been detected in Spain in 2015 and 2016, respectively, and that no medicines in Spain were known to contain these substances. States members of the European Union had submitted information regarding deaths related to their consumption. With regard to acryloylfentanyl and 4-fluoroisobutyrfentanyl, they had not been detected in Spain, nor were they present in any medicines. The Government of Spain had received information from the European Monitoring Centre for Drugs and Drug Addiction, however, about 23 deaths related to the consumption of acrylfentanyl. With regard to tetrahydrofuranylfentanyl there were indications of risk of abuse and possible dependence, no therapeutic use was known and at least 14 deaths were associated with its consumption.

21. The Government of Sri Lanka indicated that none of the substances WHO had recommended for scheduling under the 1961 Convention had so far been detected.

22. The Government of Switzerland indicated its support for the recommended scheduling of substances under the 1961 Convention. With regard to carfentanil, no medical, veterinary or industrial use was known in Switzerland. Based on the extreme potency of the substance and its severe threat to human health, carfentanil was already under national control. With regard to ocfentanil, furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl and tetrahydrofuranylfentanyl, no medical or industrial use was known in Switzerland. Based on its potential to cause substantial harm, ocfentanil was already under national control. Furanylfentanyl, acryloylfentanyl, 4-fluoroisobutyrfentanyl and tetrahydrofuranylfentanyl were in the process of being

added to the national schedules and were expected to be under control as of 1 March 2018.

23. The Government of Turkmenistan reported that it had no objections to the inclusion WHO had recommended of the substances under consideration in the schedules of the 1961 Convention.

24. The Government of Ukraine indicated its support for the scheduling WHO had recommended of the substances under consideration under the 1961 Convention, based on the results of joint research and the monitoring of the drug situation conducted by the relevant authorities. It also noted that the scheduling of 4-fluoroisobutyrfentanyl was currently under consideration by the authorities.

II. Consideration of a notification from the World Health Organization concerning scheduling under the Convention on Psychotropic Substances of 1971

25. As stated in document E/CN.7/2018/10, pursuant to article 2, paragraphs 1 and 4, of the Convention on Psychotropic Substances of 1971, the Director-General of WHO, in correspondence dated 27 November 2017, notified the Secretary-General that WHO recommended placing AB-CHMINACA, 5F-MDMB-PINACA (5F-ADB), AB-PINACA, UR-144, 5F-PB-22, and 4-fluoroamphetamine (4-FA) in Schedule II of the 1971 Convention.

26. In accordance with the provisions of article 2, paragraph 2, of the 1971 Convention, the Secretary-General transmitted to all Governments, on 28 December 2017 and 18 January 2018, a note verbale annexing the notification and the information submitted by WHO in support of its recommendations.

27. As at 12 February 2018, the following 21 Governments had provided comments on economic, social, legal, administrative or other factors relevant to the recommended scheduling of those substances: Algeria, Argentina, Australia, Bhutan, Chile, Georgia, Germany, Hungary, Indonesia, Israel, Lebanon, Lithuania, Mexico, Morocco, Myanmar, Oman, Spain, Sri Lanka, Switzerland, Turkmenistan, and Ukraine.

28. The Government of Algeria indicated its support for the recommendations made by WHO with regard to the substances to be scheduled under the 1971 Convention, based on the available evidence of their abuse, the serious risks they posed to public health and the lack of any recognized therapeutic use.

29. The Government of Argentina indicated that it had no objections to the inclusion of AB-CHMINACA, 5F-MDMB-PINACA, AB-PINACA, UR-144, 5F-PB-22 and 4-fluoroamphetamine in Schedule II of the 1971 Convention. In Argentina, all six substances were considered narcotic drugs because they were included in annex I to decree No. 69/2017.

30. The Government of Australia reported that it supported the inclusion of AB-CHMINACA, 5F-MDMB-PINACA, AB-PINACA, UR-144, 5F-PB-22, and 4-fluoroamphetamine in Schedule II of the 1971 Convention. In the event that these substances were scheduled under the 1961 Convention and the 1971 Convention, Australia would make a minor amendment to the Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958 to comply with Article 12 of the 1971 Convention. The substances WHO had recommended for inclusion in the 1971 Convention had no recognized medicinal use in Australia and were subject to criminal penalties for importation into Australia under the Criminal Code Act 1995. While in support of placing the substances under international control, the Government of Australia made note of the challenges surrounding the identification and reliability of statistics on seizures and detections of all new psychoactive substances. The rapidly evolving drug scene could overtake the

reporting capabilities and procedures of agencies, which could affect the integrity of detection data.

31. The Government of Bhutan indicated that it had no comments on the recommendations made by WHO.

32. The Government of Chile reported that AB-CHMINACA, AB-PINACA, UR-144 and 5F-PB-22 had been studied by the country's New Psychoactive Substances Board and placed under control on 22 March 2017. 5F-MDMB-PINACA was currently under review by the same Board.

33. The Government of Georgia indicated its support for the recommendations made by WHO.

34. The Government of Germany reported that it had no objections to the scheduling WHO had recommended of the substances under consideration and noted that all the substances mentioned were or would be covered by the German Law on Narcotic Drugs. This position was subject to a decision pending at the Council of the European Union, which stated that States members of the European Union were to support the scheduling of all the substances mentioned under the respective schedules of the 1971 Convention.

35. The Government of Hungary indicated its support for the scheduling WHO had recommended of the substances under consideration under the 1971 Convention. It also noted that, in Hungary, AB-CHMINACA, AB-PINACA and 4-fluoroamphetamine were classified as narcotic drugs.

36. The Government of Indonesia suggested that the substances recommended by WHO for scheduling under the 1971 Convention be included in Schedule I instead of Schedule II. The Government of Indonesia noted that AB-CHMINACA, 5F-MDMB-PINACA, AB-PINACA, and 5F-PB-22 were never used for medical purposes, that many cases of abuse had been reported, and that Indonesian national law prohibited their use. It also noted that UR-144 was close in structure to FUB-UR-144, that it was never used for medical purposes and that national law prohibited its use. It further noted that 4-fluoroamphetamine was never used for medical purposes in Indonesia.

37. The Government of Israel indicated its support for the scheduling WHO had recommended of the substances under consideration under the 1971 Convention. The substances in question were all already included in the Dangerous Drugs Ordinance, either individually or by virtue of their being structural derivatives of substances individually controlled.

38. The Government of Lebanon noted that, with regard to the substances WHO had recommended for scheduling under the 1971 Convention, AB-PINACA and its derivatives were already on Schedule I of the 1961 Convention, and 4-fluoroamphetamine was already on Schedule II of the 1971 Convention based after the internal security forces had notified the seizure of a small quantity of those substances. The Government of Lebanon further noted that, while UR-144 was currently not scheduled, it would consider the decision to be made by the Commission on Narcotic Drugs and its recommendation, if any, to schedule the substance under consideration.

39. The Government of Lithuania reported that it supported the proposal and would not have any comments on the information provided by UNODC. All the substances proposed for scheduling had already been included in the lists of narcotic and psychotropic substances under order No. 5 of the Ministry of Health of Lithuania of 6 January 2000.

40. The Government of Mexico noted that it had no objection to the scheduling WHO had recommended of the substances under consideration under the 1971 Convention.

41. The Government of Morocco noted that its Ministry of Health subscribed to the approach that the protection of public health and the rational use of the substances in question should be ensured with a view to working towards the recognition and consolidation of the objectives of the international drug control conventions.

42. The Government of Myanmar indicated its support for the recommendations made by WHO with regard to the substances to be scheduled under the 1971 Convention. Myanmar noted that the substances under consideration were neither being used in laboratories nor in the industrial sector in Myanmar, and that they were likely to be abused and therefore constituted a public health and social problem.

43. The Government of Oman indicated its agreement with the recommendations made by WHO on the substances to be scheduled under the 1967 Convention.

44. The Government of Spain reported that it was in favour of all the recommendations made by WHO with regard to the substances to be placed in Schedule II of the 1971 Convention. It reported that toxicological effects in humans of AB-PINACA, AB-CHMINACA, 5F-PB-22, UR-144 and 5F-MDMB-PINACA, which belonged to the group of synthetic cannabinoids, were not known in detail. However, animal studies suggested that they could be more powerful than tetrahydrocannabinol, and could carry the risk of generating even longer-term dependency. The Government of Spain noted that synthetic cannabinoids had considerable adverse effects unknown in natural cannabis, and that deaths associated with their consumption had been registered. The substances in question had been detected in Spain in samples originating from trafficking, and no synthetic cannabinoids were present in medicines in Spain. It further noted that, regarding 4-fluoroamphetamine, its consumption led to many adverse effects including bruxism, insomnia, loss of appetite, nervousness and anxiety. The substance had been detected in Spain and was not present in any medicines.

45. The Government of Sri Lanka indicated that none of the substances WHO had recommended for scheduling under the 1971 Convention had so far been detected.

46. The Government of Switzerland indicated its support for the inclusion of all recommended substances in Schedule II of the 1971 Convention. No medical or industrial use of the six substances was known in Switzerland. Based on their potential to cause substantial harm, all six substances were already under national control in Switzerland.

47. The Government of Turkmenistan reported that it had no objections to the inclusion WHO had recommended of the substances under consideration in the Schedules of the 1971 Convention.

48. The Government of Ukraine indicated its support for the scheduling WHO had recommended of the substances under consideration under the 1971 Convention. It reported that 4-fluoroamphetamine, AB-PINACA and UR-144 were already under control. The Government of Ukraine also noted that the scheduling of AB-CHMINACA, 5F-PB-22 and 5F-MDMB-PINACA was currently under consideration by the relevant authorities.

Additional comments provided by Member States with regard to other information contained in the communication by the Director-General of the World Health Organization

49. The Director-General of WHO, in his communication to the Secretary-General, also made reference to the recommendation made by the thirty-ninth Expert Committee on Drug Dependence to carry out a critical review of pregabalin, tramadol and preparations containing almost exclusively cannabidiol, and the recommendation to keep etizolam under surveillance.

50. The Government of Algeria reported that measures would be implemented to place pregabalin and tramadol under national control.

51. The Government of Bhutan indicated that it had scheduled tramadol under its Narcotic Drugs and Psychotropic Substance, Substance Abuse Act 2015 in a 2017 amendment.

52. The Government of Georgia indicated that, according to the law of Georgia on Psychotropic Substances, Precursors and Narcological Aid, tramadol and any of its forms were listed narcotic drugs; pregabalin and any of its forms were listed as psychotropic substances.

53. The Government of Lebanon noted that tramadol and pregabalin were both placed under control under a ministerial decision to prevent possible abuse. They were dispensed only by medical prescription and subject to inspection by the authorities. It also noted that etizolam was already in Schedule IV of the 1971 Convention because of its potential for abuse and because of recommendations to put it under surveillance.

54. The Government of Oman indicated that pregabalin had been a controlled non-psychotropic drug since 2013, tramadol had been classified as a psychotropic drug since 2013 and tramadol hydrochloride and all its salt forms had been classified as psychotropic substances on the narcotic and psychotropic controlled drug list. Etizolam was not registered.

55. The Government of Sri Lanka indicated that, during 2017, 1,341 tramadol tablets had been detected. Tramadol was not listed as a dangerous drug under national drug laws. The Government also reported that no preparations had been detected consisting almost exclusively of cannabidiol, pregabalin or etizolam.

56. The Government of Ukraine noted that tramadol and cannabidiol were already under control, and that the authorities currently had the scheduling of etizolam and pregabalin under consideration.