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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 under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

Note by the Secretariat

Summary

The present document contains information and 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 Table I and Table 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 assessments of two fentanyl precursors, 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone (NPP), and, for consideration, the recommendation of the Board that ANPP and NPP be included in Table I of the 1988 Convention.

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I. Introduction

1. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, 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 5 October 2016, the Government of the United States of America transmitted to the Secretary-General a notification regarding the inclusion of 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone[1] (NPP) in Table I of the 1988 Convention.

3. In accordance with the provisions of article 12, paragraph 3, of the 1988 Convention, the Secretary-General transmitted, by note verbale (NAR/CL.5/2016) dated 25 October 2016, the notification by the Government of the United States to all Governments and the International Narcotics Control Board (INCB). Also in that note, a questionnaire on ANPP and a questionnaire on NPP were sent to Governments, requesting them to submit their comments regarding the notification and any supplementary information that might assist INCB in establishing an assessment.

4. In response to that note, as at 30 January 2017, 50 Governments had responded to the questionnaire on ANPP and 49 Governments had responded to the questionnaire on NPP sent out by the Secretary-General.

II. 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

5. On 1 February 2017, in accordance with article 12, paragraph 4, of the 1988 Convention, the President of INCB notified the Chair of the Commission on Narcotic Drugs that the Board had completed its assessments of ANPP and NPP, for possible inclusion in the tables of the 1988 Convention.

6. The Board, having taken into account the extent, importance and diversity of the licit use of the substances, recommends that ANPP and NPP be included in Table I of the 1988 Convention.

7. The notification from the President of INCB and the assessment, findings and recommendations of the Board in respect of the two substances are contained in the annex to the present document, for consideration by the Commission at its sixtieth session.

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

8. In accordance with article 12, paragraph 5, of the 1988 Convention, the Commission, taking into account the comments submitted by the parties and the

[1] Also referred to as *N*-phenethyl-4-piperidinone.

comments and recommendations of the Board, whose assessment shall be determinative as to scientific matters, and also taking into due consideration any other relevant factors, may decide by a two-thirds majority of its members to place a substance in Table I or Table II. From a practical point of view, this means that, for a decision to be adopted, an affirmative vote of at least 35 members of the Commission is required.

9. The Commission should therefore decide:

(a) Whether it wishes to place ANPP in Table I of the 1988 Convention or, if not, what other action, if any, might be required;

(b) Whether it wishes to place NPP in Table I of the 1988 Convention or, if not, what other action, if any, might be required.

Annex

Notification dated 1 February 2017 from the President of the International Narcotics Control Board to the Chair of the Commission on Narcotic Drugs at its sixtieth session concerning the scheduling of 4-anilino-*N*-phenethylpiperidine and *N*-phenethyl-4-piperidone[a] under 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 article 12, paragraphs 4 and 5, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, has completed its assessments of two fentanyl precursors, 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone (NPP), for possible inclusion in the tables of the 1988 Convention.

2. The Board finds that both substances are frequently used in the illicit manufacture of fentanyl and are highly suitable for the illicit manufacture of a number of fentanyl analogues, and that the volume and extent of the illicit manufacture of fentanyl and fentanyl analogues pose serious public health or social problems so as to warrant international action. The Board, having taken into account the extent, importance and diversity of the licit use of the substances, is therefore recommending that ANPP and NPP be included in Table I of the 1988 Convention.

3. The assessment, findings and recommendations of the Board in respect of the two substances are attached to the present annex and have been prepared for submission to the Commission at its sixtieth session. Information about ANPP and NPP is also being published in the 2016 report of the Board on the implementation of article 12 of the 1988 Convention,[b] pursuant to paragraph 13 of that article. That report will be launched on 2 March 2017.

[a] Also referred to as *N*-phenethyl-4-piperidinone.

[b] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2016 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.17.XI.4).

Appendix

Assessment of 4-anilino-*N*-phenethylpiperidine and *N*-phenethyl-4-piperidone[a] pursuant to article 12, paragraph 4, for inclusion in the tables of the 1988 Convention

A. Background

1. In October 2016, in the light of an epidemic of overdose deaths linked to opioids, including fentanyl-laced heroin and other forms of illicitly manufactured fentanyl and fentanyl analogues, the Government of the United States of America transmitted to the Secretary-General a notification containing the relevant information at its disposal and a request to initiate the scheduling process for two fentanyl precursors, namely 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone (NPP).

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 transmitted the information contained in that notification to all parties and to other countries in the form of a questionnaire (NAR/CL.5/2016), requesting their comments concerning the notification and all supplementary information that might assist the International Narcotics Control Board in carrying out its assessment. The questionnaire was sent to Governments on 25 October 2016 with the request to submit any comments on the proposal before 22 December 2016. The responses supplied by Governments to the questionnaire are examined in section B below.

B. Assessment

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

> 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 the notification from the Government of the United States to the Secretary-General, as well as the comments and supplementary information received from Governments pursuant to article 12, paragraph 3, of the Convention. As at 30 January 2017, 50 Governments had responded to the questionnaire on ANPP sent out by the Secretary-General on 25 October 2016, and 49 Governments had responded to the

questionnaire on NPP sent to Governments by the Secretary-General on the same date. All Governments, including 24 States members of the European Union who are members of the United Nations, supported, or recorded no objection, to the proposals to schedule NPP and ANPP. The European Commission conveyed the non-objection to both proposals of four additional States members of the European Union that did not submit individual responses to the questionnaires. It also indicated that one State member of the European Union was not in favour of scheduling NPP and ANPP.

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

(a) ANPP is an immediate precursor of fentanyl and acetyl fentanyl, which are included in Schedule I and Schedule IV of the Single Convention on Narcotic Drugs of 1961, as well as a limited number of fentanyl analogues not currently under international control;

(b) NPP can either be used as a starting material for ANPP, which can subsequently be synthesized into fentanyls, or be a direct precursor to a number of fentanyl analogues, both internationally controlled and non-controlled, without ANPP as an intermediary;

(c) Fentanyl and fentanyl analogues are very potent narcotic drugs, typically 10 to 100 times stronger than heroin. Consequently, small amounts of ANPP and NPP (kg range) are sufficient to manufacture millions of doses of end products (fentanyls). The high potency of the end products has resulted not only in overdose deaths in users but also in the inadvertent exposure of law enforcement and other personnel along the distribution chain (e.g. employees of courier and postal services);

(d) The number, size and frequency of seizures and other incidents involving ANPP and NPP have to be seen in the context of the potency and potential lethality of the end products.

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 illicitly manufactured fentanyl and fentanyl analogues are issues that affect more than one geographical region and warrant international action;

(b) ANPP and NPP are substances that are highly suitable for the illicit manufacture of fentanyl and a number of fentanyl analogues. Although the number and volume of reported incidents (e.g. seizures, use in illicit manufacture and trafficking) involving ANPP and NPP is small, evidence exists, including from forensic profiling, that most illicitly manufactured fentanyl was manufactured using synthesis methods involving these chemicals. Incidents involving NPP have been reported in North America, Asia and Europe, and incidents involving ANPP have been reported in Europe, North and South America, and Asia. Given the small amounts involved in incidents involving these substances, and the lack of reference standards for analysis of seized chemicals, the extent of trafficking and illicit use of both ANPP and NPP may be larger;

(c) Legitimate manufacture and uses of ANPP and NPP are limited, in terms of both the number of Governments reporting such activities and the range of uses. Use of both substances is limited to the legitimate manufacture of fentanyl and certain fentanyl analogues, and to the use of small amounts for research, development and quality-control purposes. Most Governments that responded to the questionnaires indicated that they were unable to identify and quantify legitimate uses of ANPP and NPP and were unaware of alternative chemicals;

(d) Trade in ANPP and NPP for legitimate commercial purposes is limited to a small number of countries, commercial operators and transactions. The majority of transactions, aside from a few exceptions for pharmaceutical industrial purposes, involve very small amounts for research, analysis and quality-control purposes;

(e) The use of ANPP and NPP by the pharmaceutical industry falls within the regulated environment of legitimate manufacture of fentanyl (i.e., narcotic drugs);

(f) No Government foresaw difficulties in supporting the scheduling of NPP and ANPP under the 1988 Convention. The availability of ANPP and NPP for legitimate 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 ANPP and NPP for relevant legitimate uses.

D. Recommendations

7. The Board is of the opinion that international control of ANPP and NPP is required in order to limit their availability to traffickers with a view to reducing the quantity of fentanyl, acetyl fentanyl and other fentanyl analogues illicitly manufactured from these substances and trafficked internationally. Given the ease, efficiency and versatility of the illicit manufacturing processes involving ANPP and NPP, placing these substances under control in the 1988 Convention may also serve as a preventive measure in the synthesis of existing and potential fentanyl analogues (fentanyl-type new psychoactive substances) derived from these substances. Those controls would have no adverse effect on the availability of ANPP and NPP for any of the known legitimate uses. In view of the above, the Board recommends that both ANPP and NPP be placed under control in 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 article 12, paragraph 10 (a), of that Convention to request the issuance of pre-export notifications for substances in Table I. The inclusion of ANPP and NPP in Table I of the 1988 Convention would therefore make it possible for Governments to request pre-export notifications, which would in turn allow the monitoring of manufacture of and trade in the substances.

9. In the light of the above, the Board recommends that 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone (NPP) be added to Table I of the 1988 Convention.