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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 the 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.7/2017/8, 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 25 November 2016, notified the Secretary-General that WHO recommended that U-47700 and butyrfentanyl 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 21 December 2016 and 16 January 2017, a note verbale annexing the notification and the information submitted by WHO in support of that recommendation.

3. As at 14 February 2017, the following 20 Governments had provided comments on economic, social, legal, administrative or other factors relevant to the recommended scheduling of those substances: Algeria, Argentina, Australia, Bahamas, Belgium, Colombia, Croatia, Egypt, Germany, Guatemala, Hungary, Italy, Mexico, Morocco, Romania, Russian Federation, Spain, Switzerland, Thailand and Uruguay.

4. The Government of Algeria reported that it supported the recommendations proposed by WHO, noting that placing the substances under international control was

* E/CN.7/2017/1.

justified, owing to the evidence of their abuse, the serious risk they posed to public health and the lack of recognized therapeutic use.

5. The Government of Argentina reported that it would support the inclusion of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention on the basis of their lack of recognized medical use and the significant risk posed by them to public health and society.

6. The Government of Australia indicated its support for the inclusion of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention. The Government reported that the substances had no recognized medical use in Australia and that the importation of those substances into the country was subject to criminal penalties under the Criminal Code Act 1995. In the event of the scheduling of the substances, there would be a minor amendment to the Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958.

7. The Government of the Bahamas reported that it had no objections to the placement of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention. It noted that it would add the substances to its Schedule of Illicit Drugs under the Bahamas Dangerous Drugs Act, which would not require an amendment.

8. The Government of Belgium indicated its support for the proposed scheduling of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention.

9. The Government of Colombia reported that, based on a literature review, case studies undertaken by other countries and the reviews conducted by the WHO Expert Committee on Drug Dependence, it considered the monitoring and control of U-47700 and butyrfentanyl to be necessary. The Government noted that the presence of the substances on its territory had not been confirmed and that the customs authority of Colombia had not reported the transit of those substances into or out of Colombian territory. The Government reported that no health or community development benefits had been identified in relation to the use of those substances and that the substances had no identified medical, industrial or scientific use in Colombia.

10. The Government of Colombia further underlined that placing U-47700 and butyrfentanyl under international control would have no negative economic, social, legal, administrative or other implications for the country. On the contrary, including the substances in the international schedules would provide legal instruments for administrative, operational and judicial control. Nevertheless, it requested that the increased workload required for both the administration of justice and the implementation of control measures by administrative authorities be taken into account. With regard to forensic analysis, the Government noted that the actions required to enable crime and forensic laboratories to strengthen their capacity to analyse those chemical substances should be considered and implemented, with a view to the production of certified reference materials and the development of suitable analysis techniques (including toolkits) to identify the substances that would be subject to control. Finally, the Government, in line with its new, more human rights-centred approach to drug policy, added that a call should be made to ensure that, when new substances were placed under international control, there would be no accompanying intensification of the criminalization of consumption or the use of criminal law to suppress it.

11. The Government of Croatia reported that, although U-47700 and butyrfentanyl were not listed as banned substances under national law and there had been no recorded cases of the illicit use or sale of those substances on its territory, it had no legal or administrative reservations to the proposed scheduling under the 1961 Convention.

12. The Government of Egypt reported that it had no objections to including U-47700 and butyrfentanyl in Schedule I of the 1961 Convention. It stated that there were no recognized therapeutic uses of those substances in Egypt.

13. The Government of Germany reported that it had no objections to placing U-47700 and butyrfentanyl under international control, noting that all substances mentioned were or would be covered by the German Law on Narcotic Drugs.

14. The Government of Guatemala reported that, while there was currently no control of U-47700 and butyrfentanyl under its national law, it had no objections to including the substances in Schedule I of the 1961 Convention.

15. The Government of Hungary indicated its support for the scheduling of U-47700 and butyrfentanyl under the 1961 Convention. It reported that butyrfentanyl had already been listed under national law and that the country was currently undertaking an initial risk assessment of U-47700.

16. The Government of Italy reported that it had initiated a process of evaluation, by its national scientific bodies, for the possible inclusion of U-47700 in the list of substances under national control (Table I of Presidential Decree No. 309/90). Butyrfentanyl was currently not under national control. The Government noted that there was no known medical use of either substance in Italy.

17. The Government of Mexico reported that, after consultation with the relevant national authorities and assessment by the Technical Group for Synthetic Drug Control (GTCDS), it had no objections to placing U-47700 and butyrfentanyl in Schedule I of the 1961 Convention, as recommended by WHO. The Government also reported that it had no information on any national enterprise that produced, stored, transported or marketed those substances. In addition, there had been no seizures of U-47700 or butyrfentanyl, no history of production of those substances in illegal laboratories had been registered in Mexico, and there was no precedent for their possible lawful use.

18. The Government of Morocco indicated that it had no objections to the proposed scheduling of U-47700 and butyrfentanyl under the 1961 Convention.

19. The Government of Romania reported that U-47700 and butyrfentanyl were currently not placed under national control.

20. The Government of the Russian Federation considered it appropriate to include U-47700 and butyrfentanyl in Schedule I of the 1961 Convention, as recommended by WHO. The Government reported that it was in the process of placing those substances under national control and that those substances had no application in the pharmaceutical industry.

21. The Government of Spain indicated its support for the inclusion of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention. It reported that both substances were susceptible to abuse similar to that observed with other controlled opioids and that the consumption of U-47700 and butyrfentanyl produced harmful effects similar to controlled opioids, posing a risk to public health and society. It noted that butyrfentanyl could also be converted to fentanyl and that there was currently no recognized therapeutic use for either U-47700 or butyrfentanyl. It added that, to date, the national network of drug analysis laboratories had not detected U-47700 and butyrfentanyl among trafficked substances.

22. The Government of Switzerland reported that there was no medical or industrial use for U-47700 and butyrfentanyl in Switzerland. Given the potential of those substances to cause substantial harm, both had already been placed under national control.

23. The Government of Thailand indicated that it had no objections to the inclusion of U-47700 and butyrfentanyl in Schedule I of the 1961 Convention.

24. The Government of Uruguay indicated that, given the lack of proven therapeutic and licit industrial uses of U-47700 and butyrfentanyl in its country and the potential risk to public health and society posed by those substances, it was in support of their inclusion in Schedule I of the 1961 Convention, as recommended by WHO.

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.7/2017/8, pursuant to article 2, paragraphs 1 and 4, of the Convention on Psychotropic Substances of 1971, the Director-General of WHO, in correspondence dated 25 November 2016, notified the Secretary-General that WHO recommended placing 4-MEC (4-methylethcathinone), ethylone, pentedrone, ethylphenidate, MPA (methiopropamine), MDMB-CHMICA, 5F-APINACA (5F-AKB-48) and XLR-11 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 a note verbale dated 21 December 2016, annexing the notification and the information submitted by WHO in support of its recommendations.

27. As at 14 February 2017, the following 19 Governments had provided comments on economic, social, legal, administrative or other factors relevant to the recommended scheduling of those substances: Algeria, Argentina, Australia, Belgium, Colombia, Croatia, Egypt, Germany, Guatemala, Hungary, Italy, Mexico, Morocco, Romania, Russian Federation, Spain, Switzerland, Thailand and Uruguay.

28. The Government of Algeria indicated its support for the recommendations made by WHO. It noted that the evidence of the abuse of those substances, the serious risk they pose to public health and the lack of recognized therapeutic uses warranted international control.

29. The Government of Argentina reported that 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 had not been found to have any therapeutic uses to date, and none of those substances were found in any of the medicinal product records in the national register of medicines. Furthermore, those substances were not included in annex I to Decree No. 772/2015 issued by the National Executive, which supplements Act No. 23.737.

30. The Government of Australia indicated its support for the inclusion of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention. In the event of the scheduling of the substances, there would be a minor amendment to the Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958. The Government reported that the substances had no recognized medical uses in Australia and that the importation of those substances into the country was subject to criminal penalties under the Criminal Code Act 1995. The Government noted that, although it supported the substances being placed under international control, there were challenges surrounding the identification of those new substances. The Government also noted issues related to the reliability of statistics on seizures and detections of such substances and observed that the rapidly evolving drug scene could overtake the reporting capabilities and procedures of agencies.

31. The Government of Belgium indicated its support for the scheduling of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention. However, it noted that national experts believed that some of those substances should be placed in Schedule I of the 1971 Convention instead, owing to the reporting of fatal intoxications and the lack of legitimate medical uses for those substances.

32. The Government of Colombia reported that, on the basis of a literature review, case studies undertaken by other countries and the reviews conducted by the WHO Expert Committee on Drug Dependence, it considered the monitoring and control of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 to be necessary. It further noted that in 2014 the presence of ethylone for recreational use was detected through the early warning system. However, the scale of consumption of that substance was unknown. Nonetheless, its presence posed a health risk. With regard to the other substances, their presence in the country had not been confirmed, and specifically, the customs authority of Colombia had not reported the transit of such substances into or out of Colombian territory. The Government further reported that no health or community development benefits had been identified in relation to the use of those substances, and the substances had no identified medical, industrial or scientific uses in Colombia.

33. The Government of Colombia further underlined that placing 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 under international control had no negative economic, social, legal, administrative or other implications for the country. On the contrary, including the substances in the international schedules would provide legal instruments for administrative, operational and judicial control. Nevertheless, it requested that the increased workload required for both the administration of justice and the implementation of control measures by administrative authorities be taken into account. With regard to forensic analysis, the Government noted that the actions required to enable crime and forensic laboratories to strengthen their capacity to analyse those chemical substances should be considered and implemented, with a view to the production of the respective certified reference materials and the development of suitable analysis techniques (including toolkits) to identify the substances that would be subject to control. Finally, the Government, in line with its new, more human rights-centred approach to drug policy, added that a call should be made to ensure that when new substances were placed in the international control schedules, there would be no accompanying intensification of the criminalization of consumption or the use of criminal law to suppress it.

34. The Government of Croatia indicated its support for including 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention, noting that the substances had already been placed under national control.

35. The Government of Egypt reported that it had no objections to including 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention. It further informed that there were no recognized therapeutic uses of those substances in Egypt.

36. The Government of Germany reported that it had no objections to placing 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 under international control, noting that all substances mentioned were or would be covered by the German Law on Narcotic Drugs.

37. The Government of Guatemala reported that while there was currently no control of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA,

5F-APINACA and XLR-11 under its national law, it had no objections to including those substances in Schedule II of the 1971 Convention.

38. The Government of Hungary indicated its support for the WHO recommendation concerning the scheduling of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 under the 1971 Convention. It further reported that under national law, all of the substances had already been listed.

39. The Government of Italy reported that 4-MEC, ethylone, ethylphenidate, MDMB-CHMICA and 5F-APINACA were included in the list of substances under national control (Table I of Presidential Decree No. 309/90). Furthermore, through Italy's national scientific bodies, the Government had initiated an evaluation process for the possible inclusion of pentedrone and XLR-11 in the list of substances under national control. MPA was currently not under control in Italy. The Government also noted that there was no known medical use of the above-mentioned substances in Italy.

40. The Government of Mexico reported that after consultation with the relevant national authorities and assessment by the Technical Group for Synthetic Drug Controls, it had no objections to placing 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention, as recommended by WHO. The Government also reported that it had no information on any national enterprise that produced, stored, transported or marketed those substances. In addition, no history of production of those substances in illegal laboratories and no seizures of those substances had been registered in Mexico. There was also no precedent for their possible lawful use.

41. The Government of Morocco indicated that it had no objections to the proposed scheduling of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 under the 1971 Convention.

42. The Government of Romania reported that 4-MEC, pentedrone and XLR-11 were considered high-risk drugs and placed under national control (Law No. 143/2000 and Law No. 339/2005). It further reported that ethylone, ethylphenidate, MPA, MDMB-CHMICA and 5F-APINACA were not controlled in Romania.

43. The Government of the Russian Federation considered it appropriate to include 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention, as recommended by WHO. It reported that those substances were already under national control and had no recognized medical use.

44. The Government of Spain indicated its support for the inclusion of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention. The Government noted that the use of those substances posed a serious risk to public health and society and that the substances had no recognized therapeutic uses. In addition, those substances were susceptible to abuse and produced similar harmful effects to other substances in Schedule II of the 1971 Convention. In line with this, the Government had not identified any economic, social, legal, administrative or other factors that it deemed relevant to the recommended inclusion of the substances in Schedule II of the 1971 Convention. Furthermore, it reported that the drug analysis laboratories forming part of the national network had detected all the above-mentioned substances among those trafficked in Spain.

45. The Government of Switzerland reported that there were no medical or industrial uses of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Switzerland. Based on their potential to cause substantial harm, all of those substances were already under national control.

46. The Government of Thailand indicated that it had no objections to the inclusion of 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 in Schedule II of the 1971 Convention.

47. The Government of Uruguay indicated that 4-MEC, ethylone, pentedrone, ethylphenidate, MPA, MDMB-CHMICA, 5F-APINACA and XLR-11 had no proven therapeutic or licit industrial uses in the country and that those substances could pose a risk to public health and society. Taking into account the abuse and ill effects of those substances, the Government noted that it was in support of their inclusion in Schedule II of the 1971 Convention, as recommended by WHO.