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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 recommendations for consideration by the Commission on Narcotic Drugs pursuant to the international drug control treaties.

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 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 with regard to the assessments of *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP) and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) and, for consideration, the recommendation of the Board that 4-AP, 1-boc-4-AP and norfentanyl 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 4 October 2021, the Government of the United States of America submitted a notification to the Secretary-General pursuant to article 12, paragraph 2, of the 1988 Convention, proposing that three fentanyl precursors, namely *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP)[1] and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) should be included in the tables of that Convention. The notification contained relevant supplemental information on the substances, as well as six related fentanyl analogue precursor chemicals.

3. In accordance with the provisions of article 12, paragraph 3, of the 1988 Convention, the Secretary-General transmitted, by a note verbale dated 29 October 2021, the notification by the Government of the United States to all parties and to the International Narcotics Control Board (INCB). Also in that note, three questionnaires 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. A reminder note verbale was sent on 3 December 2021.

4. In response to that note, as at 28 February 2022, 65 Governments[2] and the European Commission had provided comments or responded to the questionnaires sent out by the Secretary-General.

II. Notification from the International Narcotics Control Board concerning scheduling under the 1988 Convention

5. On 1 February 2022, 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 *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP) and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) 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 4-AP, 1-boc-4-AP and norfentanyl be included in Table I of the 1988 Convention.

7. The notification from the President of INCB and the assessments, findings and recommendations of the Board in respect of the three substances are contained in the

[1] Also referred to as “boc-4-AP”.

[2] Australia, Austria, Azerbaijan, Belgium, Belize, Bolivia (Plurinational State of), Brazil, Bulgaria, Burundi, Canada, Chile, Costa Rica, Croatia, Cyprus, Czechia, Denmark, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Holy See, Honduras, Hungary, Ireland, Italy, Japan, Jordan, Latvia, Lithuania, Malta, Myanmar, Netherlands, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine, United Arab Emirates, United States of America, Uruguay and Venezuela (Bolivarian Republic of).

annex to the present document, for consideration by the Commission at its sixty-fifth 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 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 of the Convention. From a practical point of view, this means that, for a decision to be adopted, an affirmative vote of at least 36 members of the Commission is required.

9. The Commission should therefore decide:

(a) Whether it wishes to place 4-AP in Table I of the 1988 Convention or, if not, what other action, if any, might be required;

(b) Whether it wishes to place 1-boc-4-AP in Table I of the 1988 Convention or, if not, what other action, if any, might be required;

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

Annex

Notification dated 1 February 2022 from the President of the International Narcotics Control Board to the Chair of the Commission on Narcotic Drugs at its sixty-fifth session concerning the scheduling of *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP) and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) 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 presents her compliments to the Chair of the Commission on Narcotic Drugs and has the honour to inform him 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 *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP) and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) for possible inclusion in the tables of the 1988 Convention.

2. The Board finds that 4-AP, 1-boc-4-AP and norfentanyl are frequently used and very suitable precursors for the illicit manufacture of fentanyl and 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 three substances, therefore recommends that 4-AP, 1-boc-4-AP and norfentanyl be included in Table I of the 1988 Convention.

3. The assessments, findings and recommendations of the Board in respect of the three substances are attached hereto and have been prepared for submission to the Commission at its sixty-fifth session. Information about the substances has also been published since 2019 in the reports[3] of the Board on the implementation of article 12 of the 1988 Convention, pursuant to paragraph 13 of that article.

[3] *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2020 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, 2021) and the corresponding report from the previous year. The 2021 report on precursors will be launched on 10 March 2022.

Appendix

Assessments of *N*-phenyl-4-piperidinamine (4-anilinopiperidine, 4-AP), *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-anilinopiperidine, 1-boc-4-AP) and norfentanyl (*N*-phenyl-*N*-(piperidin-4-yl)propionamide) pursuant to article 12, paragraph 4, for inclusion in the tables of the 1988 Convention

A. Background

1. On 4 October 2021, in the light of the continuing epidemic of overdose deaths linked to opioids, specifically illicitly manufactured fentanyl and fentanyl analogues, the Government of the United States of America notified the Secretary-General of the United Nations of its request for inclusion of three fentanyl precursors, namely, 4-AP, 1-boc-4-AP and norfentanyl, in the tables of the 1988 Convention. The notification contained relevant supplemental information on the substances, as well as six related fentanyl analogue precursor chemicals.

2. In accordance with the provisions of article 12, paragraph 3, of that Convention, the Secretary-General transmitted the information contained in that notification to all parties and to other countries, along with three questionnaires (NAR/CL.12/2021), requesting their comments concerning the notification and all supplementary information that might assist the Board in carrying out its assessments. The questionnaires were sent to Governments on 29 October 2021 with the request to submit any comments on the proposal by 31 December 2021. A reminder was circulated to Governments on 3 December 2021.

B. Assessments

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

> 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 assessments, in accordance with article 12, paragraph 4, of the 1988 Convention, the Board had at its disposal the information contained in the notification of 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. As at 1 February 2022, 60 Governments and the European Commission had responded to each questionnaire sent out by the

Secretary-General on 29 October 2021. All Governments stated either direct support for, or registered no objection to, the proposals to schedule 4-AP, 1-boc-4-AP and norfentanyl. The European Commission conveyed the non-objection to the proposals of two additional States members of the European Union, which did not submit individual responses to the questionnaires.

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

(a) 4-AP (chemical name: *N*-phenyl-4-piperidinamine), 1-boc-4-AP (chemical name: *tert*-butyl 4-(phenylamino)piperidine-1-carboxylate) and norfentanyl (chemical name: *N*-phenyl-*N*-(piperidin-4-yl)propionamide) are very suitable precursors for the illicit manufacture of fentanyl and a number of fentanyl analogues, several of which are included in Schedule I of the Single Convention on Narcotic Drugs of 1961; some are also included in Schedule IV of that Convention, while others are not currently under international control;

(b) 4-AP, 1-boc-4-AP and norfentanyl are substitute chemicals for *N*-phenethyl-4-piperidone (NPP) and 4-anilino-*N*-phenethylpiperidine (ANPP), both of which were included in Table I of the 1988 Convention in 2017;

(c) Specifically:

(i) 4-AP is a substitute chemical for NPP, although through a different synthetic route, for the synthesis of ANPP and subsequently fentanyl and a number of fentanyl analogues;

(ii) 1-Boc-4-AP is a chemically protected derivative of 4-AP. It may be used as a starting material either for 4-AP or for norfentanyl or a number of norfentanyl analogues. All resulting chemical intermediates can be further converted into fentanyl and a number of fentanyl analogues;

(iii) Norfentanyl is an immediate precursor of fentanyl and a number of fentanyl analogues;

(d) Fentanyl and fentanyl analogues are very potent narcotic drugs, typically 10 to 100 times stronger than heroin. Consequently, small amounts of 4-AP, 1-boc-4-AP and norfentanyl (in the kilogram 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 inadvertent exposure of law enforcement personnel and other personnel along the distribution chain (e.g. employees of courier and postal services);

(e) The number, size and frequency of seizures and other incidents involving 4-AP, 1-boc-4-AP and norfentanyl 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:

(a) The volume and extent of public health or social problems caused by illicitly manufactured fentanyl and fentanyl analogues are issues that warrant international action;

(b) 4-AP, 1-boc-4-AP and norfentanyl are very 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 the substances is small, evidence exists, including from forensic profiling analysis, that most illicitly manufactured fentanyl was manufactured using synthesis methods involving these chemicals. Given the small amounts involved in 4-AP, 1-boc-4-AP and norfentanyl incidents and needed in illicit fentanyl manufacture, and given the limited experience and forensic capacity related to the

identification and analysis of these chemicals, the extent of trafficking in and illicit use of the three chemicals may be larger;

(c) There is no known legitimate manufacture of or trade in 4-AP, 1-boc-4-AP and norfentanyl other than small amounts, typically for research, analysis and reference purposes. Most Governments that responded to the questionnaires were unable to identify and quantify legitimate uses of 4-AP, 1-boc-4-AP and norfentanyl;

(d) No Government foresaw difficulties in supporting the scheduling of 4-AP, 1-boc-4-AP and norfentanyl under the 1988 Convention. One Government, which controls the substances at the national level as narcotic substances, expressed concern over the impact of scheduling the substances as raw materials. However, in this regard, the impact is expected to be minimal, as control levels are determined by Governments. Similarly, the availability of the substances under review 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 the three substances for relevant legitimate uses.

D. Recommendations

7. The Board is of the opinion that the international control of 4-AP, 1-boc-4-AP and norfentanyl is required to limit their availability to traffickers with a view to reducing the quantity of fentanyl and fentanyl analogues manufactured illicitly from those substances and trafficked internationally. Given the ease, efficiency and versatility of illicit manufacturing processes using 4-AP, 1-boc-4-AP and norfentanyl, placing them under control of the 1988 Convention may also serve as a preventive measure in the synthesis of existing and potentially new fentanyl analogues (fentanyl-type new psychoactive substances) in the future. Those controls would have no adverse effect on the availability of 4-AP, 1-boc-4-AP and norfentanyl for any of the known legitimate, and typically research and laboratory analysis-related, uses. In view of the above, the Board recommends that 4-AP, 1-boc-4-AP and norfentanyl 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 article 12, subparagraph 10 (a), of that Convention to request the issuance of pre-export notifications for substances in Table I. The inclusion of 4-AP, 1-boc-4-AP and norfentanyl in Table I would therefore provide Governments with the possibility 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-AP, 1-boc-4-AP and norfentanyl be added to Table I of the 1988 Convention.