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## Commission on Narcotic Drugs

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Vienna, 9 and 10 December 2021

Agenda item 5(c)

**Implementation of the international drug control  
treaties: International Narcotics Control Board**

### **Statement submitted by Fields of Green for All NPC, a non-governmental organization in special consultative status with the Economic and Social Council\***

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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\* Issued without formal editing.



*We would like to bring to the attention of the Commission on Narcotic Drugs – as it reconvenes on international human rights day,<sup>1</sup> and one year after approving the removal of cannabis and cannabis resin from Schedule IV of the Single Convention on Narcotic Drugs, 1961<sup>2</sup> – the following Open Letter addressed to United Nations Secretary-General António Guterres and copied to UNODC Executive Director Ghada Fathi Waly, regarding the need for transparency and accountability within the International Narcotics Control Board (INCB), particularly in relation to the “INCB Cannabis Control Initiative”. The Open Letter was endorsed by 182 non-profit organizations from 56 countries.*

Your Excellency, Secretary-General António Guterres,

We write to express our concerns with the ongoing development by the INCB of Guidelines related to medical cannabis.

Between 2016 and 2020, a complex multi-stakeholder process unfolded: it resulted in an agreement by Member States to amend the scheduling of “cannabis” and “cannabis resin” within the Single Convention on Narcotic Drugs, 1961, **exactly one year ago today**. Scientists, affected populations and non-State actors were able to participate and inform the process all along.

Conversely, since 2020, INCB has been developing Guidelines in complete opacity, raising concerns about the legitimacy and scope of the process, a fuzzy mandate, and risks of conflicts of interest.<sup>3</sup> While not binding, **these Guidelines will impact and shape trade and production of a traditional, herbal medicine and a plant indigenous to many regions of the world**. It will directly impact the lives of many of us.

Our organizations strive for global health, human rights, and sustainability. While recognizing the important role that INCB plays in helping governments ensure access to and availability of controlled medicines for all patients in need, we believe INCB should not shape alone – without us – the economic, social, environmental, and cultural future of our communities.

INCB has made many questionable statements on “medical cannabis” that science subsequently invalidated.<sup>4</sup> The trust in a functioning international legal order that the 2 December 2020 vote affirmed is being threatened by INCB’s isolated initiative.

There has been such a noticeable lack of transparency and accountability, coupled with the controversial positions taken by INCB, that many have expressed concerns.

<sup>1</sup> [Human Rights Day, United Nations](#).

<sup>2</sup> Decision 63/17 “Deletion of cannabis and cannabis resin from Schedule IV of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol” in [E/2020/28/Add.1](#) p. 5.

<sup>3</sup> [Civil society contributions on INCB’s Cannabis Initiative can be consulted on the webpage “INCB monitor”](#).

<sup>4</sup> e.g. INCB (2009) has been referring to the long-debunked “gateway theory” ([National Academy of Medicine, 1999, pp. 6–7,98–101; Narang et al. 2008; Degenhardt et al 2010; NYTimes, 2017; DPA, 2017; NIDA, 2020](#)). INCB (2019, pp. 2,109) encourages governments to limit access only to single-compound medicines, and stated that “Attempts to market and promote the medical use of cannabis products as “herbal medicines” are inconsistent with the classification of cannabis” (p.3). This is contrary to the treaties (which recognize herbal cannabis medicines, including in indigenous medicine systems, see [UN, 1973, p. 111](#)) and opposing WHO (1994; 1996, pp. 178–184; 2013)’s general guidelines, the Declaration of Alma-Ata ([WHO, 1996, p. 179](#)), as well as its cannabis-specific evidence-based assessment ([WHO, 2019, pp. 34–41](#)) recognizing the legitimacy of herbal cannabis and resin. Fully outside of its mandate, and without any methodology, [INCB \(2019, p. 4\)](#) cherry-picks information to support assertions such as “patients may confuse the acute euphoric effects of cannabinoids for longer-term medicinal effectiveness,” adopts *sui generis* frames of reference for therapeutic applications it considers valid, with little scientific justification (INCB, 2019, pp.), and overall adopts an approach that does not seem to recognize that all formulations of cannabis and cannabinoid medicines “[continue] to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure [their] availability for such purposes” ([1961 Convention, Preamble, p. 23](#)). Detailed criticism of INCB’s positions on cannabis: [Wolfe, 2013; GDPO & TNI, 2014; IDPC, 2019; Riboulet-Zemouli & Krawitz, 2021](#).

It is important to note that the INCB President pledged to organize consultations with civil society stakeholders during the Commission on Narcotic Drugs meeting in March 2021. We are still waiting to see this commitment upheld, those principles you promoted in 2020 that “together we must create more robust systems for accountability, transparency and integrity without delay” and that “a vibrant civic space and open access to information are essential.”<sup>5</sup> We write to emphasize the importance of the following:

- **The draft Guidelines should be made public.** This drafting process should follow the practice of other treaty bodies administered by the United Nations secretariat.<sup>6</sup> While confidentiality is vital in INCB’s communication with Member States, such a general and global-reaching piece of work has no good reason to be kept secret.
- INCB’s meetings are comprehensively confidential; no minutes are circulated; in fact scholars found that the INCB is more secretive than the United Nations Security-Council.<sup>7</sup> As the INCB reconvenes for its 133rd meeting in February 2022, measures should be taken to **ensure a transparent process** informed by civil society, in line with Sustainable Development Goal 16.
- All **interested parties**, including clinicians, patients, farmers, researchers and regulatory experts in line with Goal 17 should have the opportunity to **contribute to the development and improvement of these Guidelines**.
- In your position of Secretary-General you should ensure the Guidelines do not prevent States from discharging their potential **obligations beyond drug control**: related to **source material** (in particular with regards to instruments such as the Plant Treaty or Nagoya Protocol) **labour conditions** (relevant ILO Conventions), **human rights**,<sup>8</sup> and **sustainable development**.

These Guidelines are of vital importance to millions of medical cannabis patients, doctors, traditional healers, farmers, producers, and pharmaceutical manufacturers around the world. It is critical that this be a transparent and inclusive process.

As organizations that routinely engage with domestic and international regulations relating to cannabis for medical purposes we hope you can look into our requests for transparency and inclusive participation in the Guidelines development process and we are ready and willing to work constructively with the United Nations Secretariat, including the INCB Secretariat, to meet this aim and ensure that no one is left behind.

Respectfully,

The list of the 182 organizations endorsing this statement at [bit.ly/INCBmonitor#letter](https://bit.ly/INCBmonitor#letter).

<sup>5</sup> Guterres, A. (2020) *Statement on corruption in the context of COVID-19*.

<sup>6</sup> INCB staff is *de facto* part of the United Nations Secretariat. Barrett, D. (2011) ‘*Unique in International Relations?*’ See also: Voluntary contribution to INCB on transparency and accountability, 2 December 2021.

<sup>7</sup> Csete, J. (2012) “Overhauling Oversight: Human Rights at the INCB”, *LSE ideas* SR014.

<sup>8</sup> UNDP (2018) *International Guidelines on Human Rights and Drug Policy*.