For discussion on
13 March 2012

Legislative Council Panel on Security

Proposed amendments to the Schedules to the Dangerous Drugs Ordinance (Cap. 134)

PURPOSE

This paper seeks Members' support for the Administration's proposal to add to the Schedules to the Dangerous Drugs Ordinance ("the Ordinance") (Cap.134) gamma-butyrolactone, *Salvia divinorum* and its active ingredient, salvinorin-A.

THE PROPOSAL

2. We propose to amend the First Schedule to the Ordinance to include the following substances which are liable to abuse, thereby controlling their use –

(a) gamma-butyrolactone (GBL);
(b) *Salvia divinorum*; and
(c) salvinorin-A, the active ingredient of *Salvia divinorum*.

BACKGROUND AND JUSTIFICATIONS

GBL

3. GBL is a chemical which can be used as a flavouring agent and as a solvent for cleaning or removing rust or superglue. It may also be used as a precursor for producing other chemical products or dietary supplement, such as body-building powder, or flavouring agent.

4. However, the substance is liable to abuse. Government Laboratory has advised that relevant literature had indicated that GBL can be quickly converted into gamma-hydroxybutyric acid (GHB) - a dangerous drug (DD) already specified under the First Schedule to the

Ordinance - inside human body. Department of Health (DH) advised that GBL does not have any known pharmaceutical use, and that the adverse effects of GBL could be similar or even identical to those of GHB, causing vomiting, hypotonia, tremors, seizures, aggression, impairment of judgment, coma, respiratory depression, hypothermia and bradycardia.

5. GBL is not yet subject to control under any international conventions. Although a joint Food and Agriculture Organization / World Health Organization (WHO) Expert Committee on Food Additives had considered that there was no food safety concern on GBL "at current levels of intake"[1] when used as a flavouring agent, some authorities[2] are of the view that GBL is not a safe dietary ingredient and have since 2006 placed GBL on the proposed agenda for pre-review[3] by the Expert Committee on Drug Dependence (ECDD) of WHO to consider the need for imposing international control. Some jurisdictions have already on their own accord imposed different levels of control[4] over GBL. These developments reflect that GBL has aroused concern in different jurisdictions as a substance of abuse that warrants regulatory control.

Trade Situation in Hong Kong

6. Trade declarations lodged with the Census and Statistics Department between January 2006 and July 2011 showed that there were about 90 shipments (involving 13 companies) of GBL or chemicals with names appeared to be synonyms of GBL, and 17 shipments involving about 22.3 tons of GBL between August 2010 and July 2011. The relatively small volume of trade suggests that regulatory control of the substance should not cause difficulties to the industry.

7. In April 2010, a small amount of GBL was seized locally together with other DDs. This sends a warning signal of the possibility of direct consumption of GBL as a substance of abuse in the territory.

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[1] The "current level of intake" refers to the normal concentration of GBL in the end-product for human consumption.

[2] Including the Food and Drug Administration and the Council for Responsible Nutrition of the USA.

[3] For ECDD, a pre-review is a preliminary analysis to determine whether the current information of substance(s) in question justifies a critical review for consideration if ECDD should advise the Director-General of WHO to recommend the scheduling of, or amendment of the scheduling status of, the relevant substance(s).

[4] GBL is a controlled drug in Australia; a controlled drug if intended for human consumption in the UK and the USA; a controlled chemical in Korea and Thailand; a controlled pharmaceutical product in Canada, Germany and Israel; or simply a controlled substance in Ireland, Panama and Sweden.

Proposed Control

8. Although GBL has already been subject to control under the Ordinance by virtue of its being an "ester" of GHB, there is a case to specifically list it as a DD in the First Schedule to the Ordinance to dispel doubt and draw the attention of the public to the harmful effects of intake or consumption of GBL.

9. Recognising the fact that GBL may be used for food flavouring agents, we recommend that exemption be allowed for the use at a level reasonably safe for human consumption of GBL in food.

10. Based on available information, a person consuming more than 0.3 millilitre or 0.33 gram of neat GBL will suffer from adverse drug effects. Normally commodities that contain GBL either as a natural ingredient or as a flavouring agent are not expected to contain over 0.1% by weight or by volume of GBL. Accordingly, only if a person consumes a relatively bulky quantity (exceeding 300 millilitre or 300 gram) of a commodity containing GBL at a concentration of 0.1% that he/she would bear the drug effects. Against this understanding, we propose to set the exemption level at 0.1%.

Salvia Divinorum **and Salvinorin-A**

11. *Salvia divinorum* is a herb native to Mexico containing an active ingredient called salvinorin-A which causes hallucinations and psychotomimetic episodes. These include psychedelic-like changes in visual perception, mood and body sensations, emotional swings and feelings of detachment. *Salvia divinorum* also causes adverse physical effects which lead to body incoordination, dizziness and slurred speech. According to DH, the distortion in perception of external reality and the self hampers the individual's ability to interact with the surroundings, and may pose a risk of injury or death. There is no known or approved pharmaceutical use of the plant itself and salvinorin-A.

12. *Salvia divinorum* is under different levels of regulatory control in many jurisdictions, including Australia, Belgium, Canada, Denmark, Estonia, Finland, Italy, Japan, Korea, Russia, Sweden and the United States. Some jurisdictions treat it as a DD while some others control its commercial trade.

Trade Situation in Hong Kong

13. A search of trade declaration record between January 2009 and November 2011 did not reveal any import or export of the plant *Salvia divinorum*.

14. Although there has not been any local seizure of *Salvia divinorum* or salvinorin-A, there has been media report of its growing popularity among young party-goers on the Mainland and in Hong Kong. In addition, as part of their on-going monitoring of new substances of abuse, Police succeeded in July 2011 in purchasing *Salvia divinorum* through the Internet from a public website. Police intelligence also revealed that some young people were aware of the existence of *Salvia divinorum*, as a substance not yet subject to control and its effects. It is imperative, therefore, to impose legislative control in a timely manner to prevent these harmful substances from becoming new substances of abuse.

Proposed Control

15. At present, *Salvia divinorum* and salvinorin-A are not subject to legislative control in Hong Kong. In view of their potential abuse and harmful effects and the development of regulatory control, it is considered necessary to subject the plant of *Salvia divinorum* and its active ingredient, salvinorin-A, to regulatory control as DDs under the Ordinance.

KEY EFFECTS OF THE PROPOSAL

16. Should the proposal be supported by the Legislative Council (LegCo), GBL, *Salvia divinorum* and salvinorin-A will be classified as DDs and hence subject to strict control[5] on the trafficking, manufacturing, possession, supply, import and export of these substances.

17. The import and export of controlled substances under the First Schedule to the Ordinance also require a licence from the Director of Health.

[5] As for other DDs, illicit trafficking, manufacturing, possession, supply, import and export of these substances will attract a maximum penalty of a fine of $5 million and life imprisonment, unless exemption applies.

CONSULTATION

18. The Action Committee Against Narcotics has been consulted and supports the proposed amendments. We have consulted the pharmaceutical and chemical trades, as well as the food industry.

WAY FORWARD

19. Pursuant to section 50(1) of the Ordinance, the Chief Executive may by order published in the Gazette amend the First and Third Schedules to the Ordinance. Subject to Members' views, we shall invite the Chief Executive to consider making an amendment order as soon as practicable. Our target is to have the amendment order tabled in the Legislative Council for negative vetting in May 2012.

ADVICE SOUGHT

20. Members are invited to comment on and support the Administration's proposal set out in paragraph 2 above.

Narcotics Division
Security Bureau
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