

Information Paper

Legislative Council Panel on Security

Proposed Amendments to the First Schedule to the Dangerous Drugs Ordinance and Schedule 2 to the Control of Chemicals Ordinance

PURPOSE

This paper briefs Members on the Government's proposal to –

- (a) bring five dangerous drugs, namely methoxyacetylfentanyl, FUB-AMB, ADB-FUBINACA, CUMYL-4CN-BINACA and ADB-CHMINACA, under control in the First Schedule to the Dangerous Drugs Ordinance, Cap. 134 (“DDO”); and
- (b) bring three precursor chemicals, namely APAA, PMK glycidate and PMK glycidic acid, under control in Schedule 2 to the Control of Chemicals Ordinance, Cap. 145 (“CCO”).

JUSTIFICATIONS

2. As a regular exercise, the Government has from time to time proposed amendments to the DDO and CCO as appropriate to include new substances under statutory control, having regard to a host of relevant factors, including international control requirements, the uses and harmful effects of the substances, severity of abuse in the local and overseas contexts, advice of the Action Committee Against Narcotics (“ACAN”) and relevant authorities, etc. This is to ensure that law enforcement agencies in Hong Kong could respond effectively to the latest drug developments.

Five Dangerous Drugs

3. At the 62nd Session of the United Nations Commission on Narcotic Drugs (“UNCND”) held in March 2019, Member States adopted the World Health Organisation (“WHO”)’s recommendation to place the following five dangerous drugs under international control. According to the 41st report of the WHO Expert Committee on Drug Dependence, the adverse effects of these drugs are as follows –

- (a) **methoxyacetylfentanyl**: methoxyacetylfentanyl is a synthetic analogue of fentanyl ¹. Similar to other opioids, overdose of methoxyacetylfentanyl can lead to respiratory arrest and death. Methoxyacetylfentanyl was associated with a number of deaths in Europe and the United States;
- (b) **FUB-AMB, ADB-FUBINACA and CUMYL-4CN-BINACA**: FUB-AMB ², ADB-FUBINACA, CUMYL-4CN-BINACA are potent synthetic cannabinoids which affect the central nervous system. In New Zealand, there were at least 20 deaths reported in 2017 likely to be related to the use of FUB-AMB. Use of ADB-FUBINACA was reported in Asia, Europe and the United States, with severe adverse reactions including death. CUMYL-4CN-BINACA was associated with 11 fatalities in Europe in 2016; and
- (c) **ADB-CHMINACA**: ADB-CHMINACA ³ is one of the most potent synthetic cannabinoids studied to date, of which the efficacy and potency are substantially greater than those of tetrahydrocannabinol (“THC”) ⁴. Signs and symptoms resulted from the abuse of ADB-CHMINACA include tachycardia, unresponsiveness, agitation, combativeness, seizures, hyperemesis, slurred speech, delirium and sudden death. Between 2014 and 2016, there were 14 reported fatalities associated with ADB-CHMINACA in Europe and Japan.

4. Currently, all of the above five dangerous drugs are not controlled under the DDO in Hong Kong. They have no known medical use or therapeutic application, and there is no registered pharmaceutical product containing these five substances in Hong Kong. As regards trade declarations, there is no record of import and export of these substances at least over the last five years.

¹ Fentanyl, which is an opioid analgesic, is a controlled dangerous drug included in the First Schedule to the DDO and Schedule 10 (Poisons List) to the Pharmacy and Poisons Regulations, Cap. 138A.

² Also known as MMB-FUBINACA and AMB-FUBINACA.

³ Also known as MAB-CHMINACA.

⁴ THC, which is a chemical found in cannabis plants and has psychoactive effect, is a controlled dangerous drug included in the First Schedule to the DDO.

5. Under the DDO, substances included in Part I of the First Schedule are dangerous drugs and are subject to the control of a licensing scheme administered by the Department of Health (“DH”). The manufacture, import, export and supply of these substances will require respective licences issued by DH. Trafficking and manufacturing of the substances in contravention of the DDO will be subject to a maximum penalty of life imprisonment and a fine of \$5 million. Possession and consumption of the substances in contravention of the DDO will be subject to a maximum penalty of seven years’ imprisonment and a fine of \$1 million.

6. In view of the adverse effects mentioned in paragraph 3 above, we **propose** including methoxyacetylfentanyl, FUB-AMB, ADB-FUBINACA, CUMYL-4CN-BINACA and ADB-CHMINACA in Part I of the First Schedule to the DDO so as to bring these five dangerous drugs under proper control.

Three Precursor Chemicals

7. At the same UNCND Session mentioned in paragraph 3 above, Member States also adopted the International Narcotics Control Board ⁵ (INCB)’s recommendation to place the following three precursor chemicals under international control –

- (a) **APAA**: APAA is an immediate precursor of 1-phenyl-2-propanone ⁶, a substance used in the illicit manufacture of amphetamine ⁷ and methamphetamine ⁷; and
- (b) **PMK glycidate** and **PMK glycidic acid**: PMK glycidate and PMK glycidic acid are both precursors of 3,4-methylenedioxy-phenyl-2-propanone ⁶, a substance used in the illicit manufacture of MDMA ⁷ and related substances.

⁵ INCB is an independent monitoring body established under the United Nations since 1968 for the implementation of the United Nations international drug control conventions, namely the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. One of its functions is to assess chemicals used in the illicit manufacture of drugs, in order to determine whether they should be placed under international control.

⁶ Both 1-phenyl-2-propanone and 3,4-methylenedioxy-phenyl-2-propanone are controlled precursor chemicals included in Schedule 2 to the CCO.

⁷ Amphetamine, methamphetamine and MDMA are controlled dangerous drugs included in the First Schedule to the DDO.

8. INCB considers that international control of APAA, PMK glycidate and PMK glycidic acid is required in order to limit their availability to traffickers, so as to reduce the quantity of amphetamine, methamphetamine, MDMA and related substances illicitly manufactured from these precursor chemicals and trafficked internationally.

9. Currently, all of the above three precursor chemicals are not controlled under the CCO in Hong Kong. There is no registered pharmaceutical product containing or made from these precursor chemicals in Hong Kong. As regards trade declarations, there is no record of import and export of these three precursor chemicals at least over the past five years.

10. Under the CCO, substances included in Schedule 2 are subject to the control of a licensing scheme administered by the Customs and Excise Department. It is an offence for a person to have in his/her possession, manufacture, transport or distribute these substances for the unlawful production of dangerous drugs; or import or export these substances not under and in accordance with a licence. The maximum penalty is imprisonment for 15 years and a fine of \$1 million.

11. Given the adversity of the use of APAA, PMK glycidate and PMK glycidic acid mentioned in paragraph 7 above, we **propose** including these three precursor chemicals in Schedule 2 to the CCO so as to bring them under proper control.

CONSULTATION

12. The Government has consulted relevant trades, including holders of licenses issued under the DDO, the CCO and the Pharmacy and Poisons Ordinance, Cap. 138. There was no adverse comment.

13. The Government has also consulted the ACAN, which supports the proposed control.

WAY FORWARD

14. Pursuant to section 50(1) of the DDO, the Chief Executive may by order published in the Gazette amend the First Schedule to the DDO. Section 18A(1) of the CCO provides that the Secretary for Security may by order amend Schedule 2 to the CCO.

15. We plan to table the relevant amendment orders in the Legislative Council for negative vetting within the 2019-20 legislative session.

ADVICE SOUGHT

16. Members are invited to note the Government's proposal in paragraph 1 above.

**Narcotics Division
Security Bureau
April 2020**