

2009 International Narcotics Control Board Annual Report Extracts

408. In 2009, the Government of Mexico enacted legislation, according to which persons found to be in possession of a specified quantity of certain illicit drugs for personal and immediate consumption will no longer face criminal prosecution. The maximum quantities for the main illicit drugs are 2 grams of opium, 50 milligrams of heroin, 5 grams of cannabis and 500 milligrams of cocaine. The legislative measure is aimed at regularizing a legal practice. In addition, persons detained with quantities of illicit drugs below the limit for personal use will be encouraged to seek treatment; in the case of persons detained for a third time, treatment is mandatory. The Board is concerned that this legal act may give the wrong signal. The Board would like to remind the Government that article 3, paragraph 2, of the 1988 Convention requires each party to that Convention to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended by the 1972 Protocol or the 1971 Convention.

453. The Board notes with concern that in countries in South America, such as Argentina, Brazil and Colombia (and in countries in North America, such as Mexico and the United States), there is a growing movement to decriminalize the possession of controlled drugs, in particular cannabis, for personal use. Regrettably, influential personalities, including former high-level politicians in countries in South America, have publicly expressed their support for that movement. The Board is concerned that the movement, if not resolutely countered by the respective Governments, will undermine national and international efforts to combat the abuse of and illicit trafficking in narcotic drugs. In any case, the movement poses a threat to the coherence and effectiveness of the international drug control system and sends the wrong message to the general public.

477. In Brazil, legislation in place since 2006 distinguishes between drug traffickers and drug users and established alternative sanctions for drug abuse without decriminalizing it. In 2009, the Supreme Court of Argentina, in a case involving personal use of cannabis by adult consumers, ruled that the punishment of personal use of cannabis was unconstitutional. The Board, concerned that such legal acts may impart a wrong message, would like to remind Governments that article 3, paragraph 2, of the 1988 Convention requires each party to that Convention to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended by the 1972 Protocol, or the 1971 Convention.

160. Having reviewed the drug control situation in the Plurinational State of Bolivia, the Board takes note of the country's new declarations concerning coca leaf, the statement by the country's President during the high-level segment of the fifty-second session of the Commission on Narcotic Drugs and the Government's proposed amendment to article 49 of the 1961 Convention as amended by the 1972 Protocol, notified to the Secretary-General on 12 March 2009. The Board, bearing in mind its mandate under the international drug control treaties, wishes to restate its position on those issues.

161. Coca leaf is defined as a narcotic drug in the 1961 Convention and listed in Schedule I of the Convention, among those narcotic drugs to which the strictest control measures are applicable. Those controls include the provisions of article 4, paragraph (c), on the general obligation for States parties to "limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs"; articles 23 and 26, on the control regimes applicable to cultivation and production for parties permitting

cultivation and production for the extraction of alkaloids; and article 27, on the possibility for parties to permit cultivation and production “for the preparation of a flavouring agent, which shall not contain any alkaloids”.

162. The Board is aware of the right of States parties to the 1961 Convention to propose amendments to the Convention in accordance with article 47. In fact, the Board has provided the Bolivian Government with relevant information on the proper mechanism for changing the scope of the Convention. The Board wishes to remind the Government that until such amendments are effected, all the uses of coca leaf considered by the Government as traditional, including coca-leaf chewing and the manufacture and consumption of coca tea, as well as all other products derived from the coca leaf of which alkaloids have not been removed, continue to be illicit activities under the terms of the Convention.

163. In so far as coca leaf remains under international control, the Plurinational State of Bolivia, as a party to the 1961 Convention as amended by the 1972 Protocol, must ensure full compliance with its obligations under the Convention, including the obligation to eliminate all uses of coca leaf for purposes other than those provided for in the Convention.