POSITION PAPER OF THE FAIRTRADE CANNABIS WORKING GROUP

FOR INCLUSIVE BUSINESS MODELS & WELL-DESIGNED LAWS AND FAIR(ER) TRADE OPTIONS FOR SMALL-SCALE TRADITIONAL CANNABIS FARMERS

INTRODUCTION AND BACKGROUND INFORMATION

Introduction

We open this Position Paper by the Fair(er) trade Cannabis Working Group[1] to share our position on future cannabis policy in the Caribbean region, with one main finding and one recommendation taken from the *Report of the CARICOM Regional Commission on Marijuana, 2018*. The relevant sections read:

> ***The evidence indicates that the existing legal prohibitionist regime on cannabis/marijuana is not fit for purpose. Both the financial and human costs are huge. The Commission is satisfied that there should be significant changes to the laws of the region to enable the dismantling of this regime to better serve Caribbean peoples. A public health/ rights-based approach is better able to confront the challenging multidimensional parameters of the drug problem, including its health, social justice and citizen security aspects.***[2]
>
> ***Small farmers and small businesspersons should be included in production and supply arrangements with appropriate controls limiting large enterprise and foreign involvement.***[3]

The *Position Paper* aims to contribute to the debate on finding sustainable and realistic solutions to the challenges posed by the developing cannabis industry, with a special focus on traditional and small-scale farmers.[4]

Despite some promising shifts in policy and amendments to many outdated drug laws, to date no CARICOM country has legalized c*annabis*. Some CARICOM countries[5] have decriminalized possession and cultivation for personal use and/or for medicinal purposes and more are considering this initiative. So far, only two countries worldwide have legalised cannabis (Canada (2001 – Medical use; 2018 – Adult use) and Uruguay (2013). Several other countries are considering regulating the cannabis market, including Luxembourg and New Zealand.

Although changes are being made to outdated laws, there are increasing complaints about the inadequacies of the current reforms and the need for bolder changes in legislation and practice. It is increasingly clear that the current reforms fail to address many pressing contemporary issues, namely social inequalities and access to justice. Of prime importance globally are the

[1] Contact details Working Group in Annex C.
[2] Conclusion 12.30, p. 64.
[3] Recommendation p. 65.
[4] The work received the support of the Global Challenges Research Fund (GCRF)
[5] Antigua and Barbuda, Belize, Jamaica, Trinidad and Tobago and Saint Vincent exclusively for medical use.

legal and regulatory barriers that prevent small-scale or traditional ganja/cannabis farmers from entering and benefiting from the emerging medical cannabis industry. The latter has become a competitive global market in which the Caribbean region could occupy a unique niche in the future.

The limitations set by the international drug treaties do not allow countries to go beyond medicinal and scientific uses of the plant, restrictions that need to be addressed. In relation to its medicinal uses, several socially accepted uses in the Caribbean region are not allowed under the current rules, nor are they included in the WHO recommendations for the rescheduling of cannabis. It is clear that CARICOM has a role to play in the current international debate.[6]

From the perspective of this Working Group, the conversation has been that *"our small farmers, the 'little man', must not miss the green gold ganja ship*". Arguably, however, they are finding it challenging to *"even smell it"* because the law does not provide for them at all, nor adequately address the challenges facing cannabis farmers. Saint Vincent and the Grenadines may be the exception to this tendency, since they are striving to implement an inclusive model, allowing the traditional producers to be part of the developing industry.

A group of individuals – including, among others, academics, cannabis experts, government representatives, policy-makers and traditional cultivators – from some of the CARICOM countries, including Antigua and Barbuda, Barbados, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago have agreed to examine and document the concerns of small-scale traditional cannabis farmers and to make recommendations for consideration by CARICOM. There is a consensus that traditional cannabis farmers have been and, in most cases, continue to be disproportionately affected by drug laws and their enforcement. [7]

The Fair(er) trade Cannabis Working Group

The Fair(er) trade Cannabis Working Group (the Working Group) arose from the *Fair(er) Trade for Small Traditional Farmers* workshop, which was held in Saint Vincent and the Grenadines 7–11 November 2019, organized by the Transnational Institute (TNI) in collaboration with the Government of St Vincent and the Grenadines (GoSVG) and the Saint Vincent and the Grenadines Cannabis Revival Committee (SVGCRC), inspired by the chain of events taking place in the country on the development of an inclusive medical cannabis market. It was agreed that the reasoning, conversations and discussions at the workshop should continue, documenting the key points, concerns and observations as well making representation to CARICOM regarding the inadequacies of the current legal and regulatory framework in the region, particularly in

[6] See Advocacy note on WHO Cannabis Recommendations: https://www.tni.org/en/publication/who-cannabis-rescheduling-and-its-relevance-for-the-caribbean

[7] A list of the participating individuals can be found in Annex C.

relation to the political decision to place traditional cannabis farmers first in line to benefit from the emergence of licit spaces in the global market.

2. KEY ISSUES AND AIM OF THE POSITION PAPER

Main Areas of Engagement

The Position Paper advances the following key areas of concern:

(i) It gives a synopsis of the amended legal and regulatory framework with respect to cannabis that is in place in some countries of the English-Speaking Caribbean, highlighting the (lack of) provisions incorporating traditional cannabis farmers into the licit spaces;

(ii) It highlights and analyses any legal provisions in place in the Caribbean to facilitate and/or enable small-scale traditional cannabis farmers to participate in the emerging or fledging cannabis industry as well as any barriers to inclusivity; and

(iii) It provides recommendations for CARICOM to consider and incorporate in modernising their members' outdated drug laws. This includes a design that should achieve a fair(er) trade cannabis model built on a rights-based, inclusive and environmentally sustainable approach to engagement in the regional market for small-scale farmers.

The Aim of the Working Group

The aim of the Working Group, as set out in this Position Paper, is to share with the CARICOM members the prevailing mood, social and economic conditions as seen from the perspectives and through the reasoning and consensus of individuals, groups and movements who are and have been involved directly or indirectly, or those who know persons who were/are most affected by the "war on drugs" and those who in many ways paved the way for the dramatically reshaped global cannabis market. This is with a view to encourage CARICOM, individually and collectively, to be bold(er) and unified in its fight against the continued prohibitionist approach to cannabis in the international sphere; to promulgate laws that provide for a fairer trade options for small-scale/traditional cannabis farmers; and bring forward to CARICOM the alternative approach of reaching ***inter se*** **modification agreements** (see page 15) among CARICOM countries and recommend similar modification agreements with specific countries that allow for the recreational or personal adult use of cannabis and its products.

The Working Group wants to highlight some of the promising steps taken by the GoSVG that could well provide an inspiring model for CARICOM nations.

COMPARATIVE COUNTRY ANALYSIS OF THE SITUATION RELATING TO SMALL-SCALE CANNABIS FARMERS

(a) Antigua and Barbuda

The initiative to promote cannabis as a legitimate economic sector and market has a long history in Antigua and Barbuda, spearheaded by the Rastafarian community. The promotion of such a sector was also justified as a human rights objective. Antigua and Barbuda enacted the Cannabis Act, 2018 No. 28 of 2018 to, among other things, provide for the regulation and control of cannabis for religious use by documented members of registered religious organisations, to uphold the constitutional rights afforded to each citizen of Antigua and Barbuda; and to provide for the regulation and control of cannabis for medicinal and scientific use. It is contended that for many, the law is not the final destination, but just one step in the right direction.

These processes are still being developed. Until November 2019 the Medical Cannabis Authority of Antigua and Barbuda (MCAAB) that was established a year after the legislation was passed had received no application to oversee the licensing regime. The authority has yet to be fully set up in order to regulate the industry. Not until recently in 2020 has the authority been officially opened to accept applications. To date, there has been no official application made to the authority, only proposals. According to the CEO of the MCAAB, due diligence is top priority for the board of directors. There are areas in the cannabis legislation that have been noted by the authority as having inconsistencies and anomalies, and as a result, the authority has compiled a set of proposed amendments to present to parliament. One such proposed amendment is the reduction in license fees.

The Rastafarians were granted first rights to ceremonial use, to grow and to transport cannabis as part of restorative justice for former victims of the prosecution of ganja. A Public–Private Partnership (PPP) involving a Rastafarian company, (RFFL), the government of Antigua and Barbuda and Itopia Life Antigua has been given preliminary approval by the cannabis authority's CEO. The Rastafarian community is in the process of completing the sacramental license applications to have the legal right to cultivate cannabis for sacramental use.

The law has made provisions for a total of 27 types of license. There are provisions in the Act, although limited, for traditional small-scale farmers to be issued with a Tier-1 cultivator license (up to 2,500 square feet, or 232 m^2 at a cost of US$15,000). There are also provisions for the issuance of orders to conduct research or clinical trials at a cost of US$5,000. Licensees will have to bear the cost of the tracking mechanism for their business.

Antigua and Barbuda also amended its Misuse of Drugs Act in 2018 to provide for the decriminalisation of cannabis for persons in possession of up to 15 g. It is, however, now a criminal offence to use cannabis in public. Each household may grow up to four cannabis plants.

(b) Barbados

There is no cannabis farmers' association in Barbados. There have been meetings between the Ichirouganaim, the Council for the Advancement of Rastafari (ICAR) and the government, leading to two Acts or Bills, both of which have been rejected by ICAR. The government's position is that no cannabis reform will take place before a referendum on what it calls "recreational use". ICAR maintains it should be termed personal use. No date has been given for this referendum.

The Government of Barbados has two Acts under consideration in relation to the Cannabis Industry, the ***Medicinal Cannabis Industry Act, 2019*** and the ***Sacramental Cannabis Act, 2019.***

The ***Medicinal Cannabis Industry Act*** provides for the regulation of cannabis for medicinal use in Barbados; the establishment of Barbados Medicinal Cannabis Licensing Authority; a Barbados Medicinal Licensing Board; and a Barbados Medicinal Cannabis Appeal Tribunal and for issuing licenses for the handling of medicinal cannabis and related matters. There is no provision for decriminalising cannabis for personal use.

The country has adopted a tiered approach to cultivation and processing permits ranging from a Tier-1 for small-scale cultivation to Tier-4 for large-scale farms. Dispensing of medicinal cannabis may be at a pharmacy or a therapeutic facility.

There is no explicit framework or provisions in the Act with respect to transitioning traditional small-scale farmers into the regulated medicinal cannabis industry. It has been said that the discussions surrounding the industry include how small farmers will be involved in it, but to date no discussion are taking place between the government and the cannabis community. Under the Act, business licenses are available for:

a. The cultivation of cannabis for medicinal purposes;
b. Transport;
c. The manufacturing of medicinal cannabis products;
d. The dispensing of cannabis at a therapeutic facility;

e. Research and Development for medicinal or scientific purposes;
f. Laboratory testing;
g. Importing of medicinal cannabis;
h. Exporting of medicinal cannabis.

Of note, as at 31 July 2020, the country is yet to publish the regulatory framework for the receipt, review and processing of application for the license types described above.

The ***Sacramental Cannabis Act 2019*** permits Rastafarians to use cannabis in their places of worship and at meetings convened elsewhere for purposes to worship; to grow a limited quantity of the cannabis plant on the premises where worship is conducted; and to have a small quantity of cannabis on the person when travelling to worship events outside the normal place of worship, once an exemption has been issued for that event.

(c) Belize

Belize amended its cannabis laws by virtue of the Misuse of Drugs (Amendment) Act, No 47 2017. The new law provides for the decriminalisation of cannabis for personal use for up to 10g, and the expungement of criminal records for prior conviction for possession of this amount. No provisions or amendments on decriminalisation on growing or possessing plants.

In 2019 provisions were made for regulating cannabis for the development of a hemp industry. The Misuse of Drugs (Industrial Hemp) Regulations provided the legal basis for the exploitation of hemp for industrial and medicinal (CBD) purposes. The THC content of the cannabis allowed for this purpose is 1%.

To date most activities are on research and development of the new industry. A total of farms/operators are registered for the production and/or processing of industrial hemp. Of that six, two have imported seedlings, which were planted; both of those companies are in the trial stage to determine which varieties will do best under Belize's climatic conditions. Eleven other farms have been approved for vetting and site verification.

(d) Jamaica

There is no definition of the term "small-scale traditional cannabis farmer" in the Act or the Interim Regulations.

The category of traditional ganja farmer is not included in the Act or Regulations. Such farmers are not implicitly or explicitly provided for and the traditional farmers or the areas in Jamaica, which are used traditionally to grow ganja, have received no exemption or protection.

Note has been taken of the regulations which provide for, or classify a ***tier-one cultivator,*** who may apply to the Cannabis Licensing Authority (CLA) to be licensed to cultivate ganja for medicinal purposes on land of less than one acre or 4,206 m^2. That person is required to satisfy all the CLA application, licensing and enforcement requirements. It would be difficult to argue that a traditional ganja farmer clearly falls under the provisions relating to the Tier-1 cultivator applicant or licensee.

The CLA's "*Startup Planting Material"* Policies and Procedures do not recognise or consider the ganja seeds, saplings or plants being grown by traditional ganja farmers as an option from which a licensee may source start-up planting materials. No doubt, the regulator may argue that those plants are from an illicit market. The Policies and Procedures allow the licensee to use the five plants per household, which are provided for under the Dangerous Drugs Act; seeds or purchases from a licensed cultivator.

An Alternative Development Pilot Project for two (2) ganja-growing communities was approved by the Government in January 2017 and has been implemented in only one of the two communities to date. There is no inclusive business model or well-designed law that places traditional farmers first in line or likely to benefit from the emergence of licit spaces in the global market. Further, the Pilot Project does not address the real issues confronting traditional farmers, for example access to funding to enter the licit market and other socio-cultural constraints.

It is noteworthy, however, that Jamaica is in the process of designing what is being called a 'special transitional permit', which has been proposed to provide the traditional small-scale farmers with an additional avenue to enter the licit market, as well an opportunity to transition from being the holder of a special permit to holding a license. It has been reported that the proposed new permit would be valid for two years and that the process would cut fees for those farmers and allow for variations to strict infrastructure and security requirements.[8]

(e) Saint Lucia

Activists in Saint Lucia have advocated for diversifying the agricultural economy by introducing a cannabis/hemp industry since the first position paper was presented to the Government of Saint Lucia [GoSL] in 1997. Saint Lucia has had a history of importing cannabis mainly from Saint Vincent and the Grenadines but in recent years has increased production to meet local demand and it is suggested that Saint Lucia now provides for most of its own internal market. The enforcement of cannabis laws is skewed toward public use and often used as a mechanism to harass young men smoking on the street. The current Prime Minister has stated that if nobody

[8] www.cla.org.jm

used cannabis with "impunity" there would be no threat of contact with criminal justice. Despite the move toward a regulated cannabis economy in Saint Lucia, the police continue to interdict cannabis crops and arrest and prosecute individuals for the offence. Despite the issue of reform to introduce the regulation of cannabis having been presented to parliament, arrests continue.

In 2018/19 Canadian investors and speculators in the medicinal cannabis industry showed some interest in Saint Lucia. There was reportedly a search for suitable land to grow a considerable (800 hectares) amount of ganja, allegedly offering to pay US$ 50–100 for a pound, or approximately 450g of flower.

The activist group has united medical doctors, lawyers, Rastafarians and others to advocate legislative change. The growers, brokers and consumers have formed a government-registered cooperative, to have a stronger negotiating position towards the investors, and this seems to be paying off.

There is considerable overlap between the farmers and growers and the Rastafarian movement, and while all farmers are not Rastafarian many are, and they have played a critical role in advocating for cannabis reform. It has been the farmers and growers, especially those that practice the Rastafarian faith, who have suffered most from interdictions by the authorities on their farms and at sea and have most experienced repression.

The distinction between producer and consumer countries has changed, at least in the case of Saint Lucia: 20 years ago, the majority of cannabis consumed in Saint Lucia was imported from Saint Vincent. That has changed as Saint Lucia now grows the majority of its cannabis, augmented by imports. After the adoption of a regulated cannabis economy Saint Lucia is seeking to focus on supplying the tourist market from overnight guests and from cruise ships.

(f) Saint Vincent and the Grenadines

On 11 December 2018, the parliament of Saint Vincent and the Grenadines passed a Medical Cannabis Industry Act and an Amnesty Act. The process leading to this historic step, witnessed the participation of a number of key stakeholders – including government agencies, the business community, the churches, representatives of civil society, the official parliamentary opposition, and last but not least, representatives of the Rastafarian faith and of traditional cultivators who have been the biggest victims in the so-called war against drugs in SVG.

1. The Medical Cannabis Industry Law provides for the establishment of a Medical Cannabis Authority to regulate the cultivation, supply, production and use of cannabis

2. for medicinal purposes. It also provides for the establishment of an Advisory Council and for matters and purposes incidental thereto.

   The law makes provision for a traditional cultivator to apply for a license to cultivate cannabis on up to 5 acres of land for two years without paying a license fee.

2. The Amnesty Act, widely believed to the first and only one of its kind worldwide, is crafted to assist the traditional cultivator in the transition from an illicit regime to a licit one. The Act, which was promulgated in July 2020, allows traditional cultivators a one-year amnesty, during which they can sell their cannabis to a licensed purchaser.
3. In July, 2019 SVG, also amended the Drugs (prevention and misuse) Act for the decriminalisation of Cannabis to make persons in the possession of up to 56 grams of cannabis no longer subject to arrest, but a ticketable one, i.e. subject to a fine.

   On the other hand, persons could be charged up to $500 EC dollars and be subject to other measures, such as being given educational material on cannabis, and counselling and rehabilitative care in the case where an individual is under 18 years of age.

   The amendment also provides for smoking of cannabis in the privacy of one's home and in places of worship. Moreover, the minister may designate a list of public areas where the smoking of cannabis may be allowed. The amended Act is expected to be promulgated soon.

(e) Trinidad and Tobago

Trinidad and Tobago passed legislation which reformed its cannabis laws in 2019, by that of the Dangerous Drugs (Amendment) Act, 2019, Chap. 11:25, thereby decriminalising the possession of cannabis for up to 30 g. The legislation is concerned with personal use and liability only and makes no provision for the cannabis farming industry.

The Government of Trinidad and Tobago indicated its intention to make provision for the formation and regulation of a cannabis industry, including a licensing scheme for cannabis cultivators. The Cannabis Control Bill, 2019 has been drafted for consideration, which seeks to provide for the regulatory control of the handling of cannabis for industry purposes, the establishment of the Trinidad and Tobago Cannabis Licensing Authority and related matters.

The Bill proposes, among other licensing arrangements, a cultivator license to be issued to allow for the "growing, harvesting, drying, trimming, curing or packaging of cannabis".

Some protection of indigenous growers is provided for in that license holders must be citizens of Trinidad and Tobago or CARICOM nationals. Further, a company, firm or co-operative society would not be eligible for a licence unless at least 30 per cent of the company, firm or co-operative society is owned by persons who are citizens or CARICOM nationals.

The proposed legislation makes no provision for small farmers or traditional growers nor any mechanism or assistance to enable such persons to transition into the industry.

I. Main issues relating to the fair trade/ traditional actor problem

Having access to the emerging medical cannabis industry in a fair and just manner was the centre of our workshop discussions, and the following section provides an overview of our analyses of the main issues and how we felt that governments could address these in their deliberations on the matter.

From the perspective of the cultivators, there are legitimate reasons to grow cannabis; growing cannabis is part of a grower's livelihood, providing an income to enable a family or community to obtain an acceptable standard of living in a context of increasing agricultural and environmental challenges facing the region. Growing cannabis also provides raw materials for various herbal medicines that are beneficial to public health. Growing cannabis for Rastafarian ceremonies is another widely accepted practice in the region.

Comparative advantages within specific CARICOM countries has meant that the cannabis market has developed along different lines, depending on the prevailing conditions, such as the soil, precipitation and geographical location. A strategy to include existing cannabis cultivation as a fair-trade commodity needs to capitalise on these comparative advantages to the benefit of all, and not be sacrificed simply to profit motives. Glyphosate-free production would be one way to a regional brand (using the ITAL standard was also mentioned) that could compete on the global market, and create a unique niche. The essence is to work together and not just compete.

Prices of cannabis differ greatly in the region, and setting a minimum price for the internal CARICOM market would be an instrument to reach fair(er) trade. Setting regional standards that would facilitate compliance with GAP and GMP standards, which are of great importance in obtaining access to international markets, but constitute a real challenge at this stage. An internal CARICOM market seems the most logical and effective way ahead. There are already valid experiences that could serve as a template, such as the banana industry.

There is an urgent need to protect the genetic varieties indigenous to the region, now under threat of being overtaken by foreign varieties (European and Canadian) based on consumer preferences for high THC content. The local land races developed over the past decades should

be protected and owned by local stakeholders, and not subject to unbridled 'free market' logic. Local knowledge of land races is mostly invested in the people who cultivate them, and this knowledge should not be sacrificed to foreign companies on the basis of short-term profit.

Concerns were raised about the research agenda on cannabis: regional coordination would avoid duplication: knowledge is now scattered around and harmonisation seems key. Involving farmers' knowledge and basing the exchange between them and government agencies (as happens in SVG) in an alliance should be the point of departure for developing local research.

The advantages of the cooperative production model, as pursued in Saint Vincent and the Grenadines and Saint Lucia, is a business model for the internal cannabis industry that has proven useful and effective, given the barriers to entering a competitive market for the mostly poorly educated traditional farmers. Promoting a cooperative form of production in CARICOM member states would be beneficial to the development of the industry.

Lack of access to land and land titles or use for traditional cannabis cultivators is hampering the reform process in most countries, and needs to be an integrated part of the sector's development. Treating this reform process as part of a poverty-reduction strategy, some redistribution of available agricultural land (as happens in SVG) seems essential.

For farmers to move up the value chain in the production process would secure economic prosperity and sustained development to the producers and their communities who are currently marginalised. Ideally, farmers would produce oil or another product from their raw material to add value to the products and increase their incomes.

Finally, it is fundamental to any serious attempt towards an inclusive and fair-trade model for cannabis in the region to remove categorically all penal sanctions and criminal records of those involved and committed to becoming licit producers of cannabis.

5. GENERAL CONCLUSIONS FROM THE FAIRTRADE CANNABIS WORKING GROUP

After evaluating the existing legislative reforms on cannabis in the region and analysing these within the context of fair trade and the potential for a sustainable cannabis industry with appropriate participation by traditional cultivators, the Working Group came to the following conclusions:

1) The traditional actors on the local cannabis markets in our countries (farmers and intermediaries) must be afforded privileges and concessions as traditional cultivators to

2) assist their transition from an illicit to a licit form of economic business. Some of these privileges and concessions are as follows:

   i. Legal recognition and legal definition of the "traditional cannabis/ganja farmers";
   ii. Access to some of or the usual benefits, concessions, subsidies that farmers of other crops enjoy; and
   iii. Recognition and legal protection of traditionally known/grown areas of cannabis.

2) There is need for the further development of the existing laws on drugs and cannabis, to design and enact explicit provisions in the latter in order to provide for privileges and concessions for traditional cannabis actors; such 'hard law' will ensure that cannabis policy is not enacted on the whims and fancies of regulators or technocrats.

3) Legislation relevant to cannabis should be coherent and comprehensive, taking note of the consequential amendment aspects of the legislative drafting process. There are many existing laws administered by different ministries, departments and statutory bodies which are diametrically opposed to the current cannabis legislative and regulatory framework and have not been harmonized toward the new approach to cannabis.

4) The status of cannabis as a plant should be emphasized for purposes of regulation. For example, in Jamaica, cannabis famers are unable to access benefits, concessions and subsidies generally provided for in the agriculture and manufacturing sectors.

5) The role of the traditional herbalist as a dispenser of medicinal cannabis must be recognized. This should be seen as a legitimate component of the legislative provisions made for the medicinal and scientific cannabis industries, as permitted under treaty law and domestic law. Traditional actors in the cannabis sector should be afforded privileges and concessions that will assist their transition to a licit economic business.

6) Governments should develop policies and laws that allow for herbalist paramedical use of cannabis to reach an economy of scale for the small traditional growers. It is very clear that there is no option for Fair(er) trade in the pharmaceutical industry.

7) There should be recognition of the traditional herbalists' intellectual property for the development of traditional treatment and medicinal-type products developed from cannabis by these traditional herbalists.

8) Research on the medicinal qualities of cannabis should be undertaken as part of an integrated fair-trade agenda with focus on traditional healing practices. Currently, scientific

efforts are scattered, incoherent and prioritize large-scale export-driven cannabis industry agendas.

9) A niche market in the global cannabis trade, through use of branding with geographic indicators, etc. and support of the fair-trade agenda should be developed.

10) A realistic, practical and affordable regime should be put in place in relation to process and allow access to traditional medicines, called in some countries "nutraceuticals". These would include but are not limited to tinctures, topical treatments, sublingual applications and teas as a comparative advantage of existing practices.

11) It would benefit local cannabis farmers if foreign investors were bound to operate under a clear set of conditions allowing local farmers to compete. They should be compelled to provide training to nationals that will assist them in scientific research and to enable them to operate and manage their manufacturing facilities, thereby ensuring continuity.

12) A facilitative security mechanism should be put in place to assist traditional cultivators in properly securing their produce.

13) A space should be provided for other traditional associates of cannabis within the medicinal cannabis industry, such as the Rastafarian community. The right to use cannabis in their ceremonies is a basic human right that should be respected.

14) CARICOM countries must take a coordinated approach to ensure strengthening of our economic and political independence in the best interest of all our people.

15) Medicinal market demands high standards of quality and consistency.

16) Promote organic standards/ Quality/ ITAL standards.

17) Respect for human rights, conflict resolution and development objectives should be established.

18) Research and promote a solution for banking issues being experienced by the medicinal cannabis Industry.

19) Develop a research and development agenda.

20) Include considerations that allow traditional farmers easy access to land.

21) Policies should be inclusive and gender sensitive.

22) Define minimum/ living wage.

23) End forced eradication of crops and incarceration of cultivators.

THE "INTER SE" MODIFICATION AND THE NEED FOR TREATY REFORM

All CARICOM countries are signatories to the three United Nations drugs conventions[9], and are as such bound to limit cannabis to medicinal and scientific uses. These constraints have proven too difficult to apply in several countries that wanted different solutions to the problems caused by global cannabis prohibition.

One possible option for achieving that reforms of domestic cannabis laws are compatible with the reforming state party's commitments under the United Nations drug control conventions is the conclusion of "inter se" agreements among like-minded parties permitting its production, trade and consumption for non-medicinal and non-scientific purposes. Inter se modification would serve to legitimize the actions of states prepared to align their domestic practice under international law in a way that could not be achieved if they were acting alone, provided it minimises the impact on other parties and on the goals of the conventions.

Article 41 of the 1969 Vienna Convention on the Law of Treaties 92 (VCLT) provides for specific options for such agreements between two or more parties in order to modify a multilateral treaty such as a drug convention. According to one of the VCLT commentaries: Due to the conflicting interests prevailing at an international level, amendments of multilateral treaties, especially amendments of treaties with a large number of parties, prove to be an extremely difficult and cumbersome process; sometimes, an amendment seems even impossible. It may thus happen that some of the States Parties wish to modify the treaty as between them alone.

Such an inter se modification agreement is permissible if (a) "the possibility of such a modification is provided for by the treaty" or (b) when "the modification is question is not prohibited by the treaty and (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations; or (ii) does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole".

[9] The Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

The proposal brought forward by the Transnational Institute and its partners has been studied and discussed among scholars and academics and brought to the attention of policy-makers around the world, in search of solutions to the conflict between their domestic policy and their international obligations. To learn more about this option, read the policy brief *Balancing Treaty Stability and Change: Inter se modification of the UN drug control conventions to facilitate cannabis regulation*, and a more recent article in the *Journal of Illicit Economies and Development*. [10]

Policy Recommendations of the Working Group Towards Cannabis and Treaty Reforms:

A. Take the recommendations of the CARICOM 2018 report to the next level, and ensure the debate continues as a priority for cannabis policy development in the region

B. Pursue the national CARICOM members' participation at the UN Commission on Narcotic Drugs (CND) in order to secure voice to be heard at the global level; currently the only CND member is Jamaica, but all countries can participate.

C. Participate and actively deliberate in the current discussions on the WHO recommendation on the rescheduling of cannabis in the international treaties. CARICOM must be resolute, clear and decisive in its position on the medicinal and traditional use and benefits of cannabis. We added as an Appendix an advocacy note for CARICOM countries on the matter.

D. Promote intra-regional trade of cannabis (within CARICOM); this would require CARICOM countries to consider and give effect to "inter se" modification agreement between CARICOM Countries as well as CARICOM countries and other like-minded jurisdictions. Such strategy may serve to liberate the traditional farmers from the medicinal cannabis "straight jacket" approach. Many believe that the different countries are implementing or have implemented regulations and legislation on medicinal use or legalisation of the medicinal use of cannabis or have opted for the pharmaceutical model. This approach unquestionably leaves out small traditional farmers since they are not able to comply with the stringent requirements or afford the fees associated with licenses or start-up costs. Moreover, these farmers, in the absence of meaningful and sustained assistance, will not be able to comply

[10] Policy Report, *Balancing Treaty Stability and Change: Inter se modification of the UN drug control conventions to facilitate cannabis regulation, by Martin Jelsma, Neil Boister, David Bewley-Taylor, Malgosia Fitzmaurice & John Walsh* Glob*al Drug Policy Observatory (GDPO) / Washington Office on Latin America (WOLA) / Transnational Institute (TNI)March 2018* and Walsh, J. and Jelsma, M., 2019. 'Regulating Drugs: Resolving Conflicts with the UN Drug Control Treaty System'. *Journal of Illicit Economies and Development*, 1(3): 266–271. DOI: http://doi.org/10.31389/jied.23

E. with the stringent demands for continuity and guaranteed quality crops. At best, under the pharmaceutical regime, farmers are easily reduced to commodity providers, selling the cannabis to the laboratories that will then extract the cannabinoids, process them further and sell the product with a sizeable mark-up.

APPENDIX A

1. SYNOPSIS OF THE CURRENT LEGAL AND REGULATORY FRAMEWORK IN SOME CARIBBEAN COUNTRIES

Tables 1–6 provide a summary of the legal and regulatory provisions (main items) within the modernized framework/processes.

Table 1: Provision(s) for the Growing of Plants for Personal Use

No.	Country	Legislation, Regulations, Policies
1	Saint Vincent & the Grenadines	None
2	Jamaica	Yes, the amended Dangerous Drugs Act, 2015. Each house(hold) can grow five or less ganja plants. These plants (including gathering or storage of the ganja) shall be deemed to be grown for medical or therapeutic use of the leaves or for horticultural purposes
3	Barbados	No
4	Saint Lucia	No
5	Antigua & Barbuda	Yes
6	Trinidad & Tobago	Yes. The amended Dangerous Drug Act – four plants may be grown
7	Belize	Yes – personal use – 10 g

Table 2: Provision with respect to Decriminalisation

No.	Country	Legislation, Regulations, Policies
1	Saint Vincent & the Grenadines	Yes 1. Possession of 56 g or less of Cannabis or Cannabis Resin is an offence under s.7A of the Drugs (Prevention of Misuse) (Amendment) Act 2019 is a Ticketable offence unless authorized for medicinal use 2. A fixed penalty of XCD$80.00, which is to be paid to a Magistrate's Court within 30 days after the notice was issued 3. Where the fixed penalty is paid, no proceedings shall be instituted for the offence. 4. Where the fixed penalty is not paid within the

		30 days after the issuance of the notice, the notice is deemed a complaint. The Magistrate Court may issue a summons to compel the offender's attendance to answer a charge in respect of the offence 5. Under s.7B (3) (a) of the Act it is stipulated that individuals should avoid using cannabis or cannabis resin if they are under the age of 18, pregnant, nursing, have a history of mental illness or have heart disease 6. Under s.7B (3) (b) it is stipulated that a person under 18 years or appears to be dependent on cannabis or cannabis resin may be referred to counselling or a Rehabilitative Centre
2.	Jamaica	Yes 1. Possession of up to 2 ounces is no longer an offence for which one may be arrested, charged and taken to court. It I will not result in a criminal record. It is a ticketable offence, where the person has 30 days from issue of the fine to pay $500 to the tax office 2. A person who is found with 2 ounces of ganja or less and is under the age of 18 years, or if the person is 18 years or older and such person appears to the police to be dependent on ganja the police will recommend such person to the National Council on Drug Abuse, in addition to paying the ticket. Some have argued that this may be problematic as it leaves the referral to the discretion of the police officer, and this also has the potential to be subjective and subject to abuse 3. Possession of over 2 ounces of ganja remains a criminal offence, where the person may be arrested, charged and tried in a court. Those convicted may be sentenced to a fine or imprisonment or both and the conviction recorded on the person's criminal record
3.	Barbados	No

4.	Saint Lucia	No legislation in place at this time
5	Antigua & Barbuda	Yes, possession of up to 15 g
6	Trinidad & Tobago	Yes, possession of up to 30 g

Table 3: Provisions for a Licensing Regime for Medicinal, Therapeutic & Scientific Purposes

No.	**Country**	**Legislation, Regulations, Policies**
1	Saint Vincent & the Grenadines	Yes
2	Jamaica	Yes
3	Barbados	Yes. Provided for in the proposed Act, medicinal and scientific
4.	Saint Lucia	
5.	Antigua & Barbuda	
6	Trinidad & Tobago	Not in the Bill drafted

Table 4: Provisions for Orders/Legal Instrument to Conduct Research or Clinical Trials

No.	**Country**	**Legislation, Regulations, Policies**
1	Saint Vincent & the Grenadines	Yes
2	Jamaica	Yes In furtherance of scientific research, a duly accredited tertiary institution or other body approved by the Scientific Research Council (SRC), or any third party engaged for scientific purpose by a tertiary institution or other body approved by SRC, the Minister responsible for science and technology may by order published in the Gazette authorize that institution or other body to cultivate ganja on lands designated by the Minister in the Order; and import into Jamaica any ganja plant or part thereof (seeds, saplings, plant tissue) from any jurisdiction where such export is authorized
3	Barbados	No
4	Saint Lucia	No
5	Antigua & Barbuda	Yes
6	Trinidad & Tobago	No

Table 5: Provisions for Use as a Sacrament

No.	Country	Legislation, Regulations, Policies
1	Saint Vincent & the Grenadines	None. The policy presented was not accepted by the Rastafarians as drafted. The Rastafarians represented at the select committee decided to postpone the Bill as drafted for further discussions in their community.
2	Jamaica	Yes
3	Barbados	Yes in draft Bill
4	Saint Lucia	No legislation in place at this time
5	Antigua & Barbuda	Yes
6	Trinidad and Tobago	No

Table 6: Provisions for Small-Scale Cultivators/Traditional Cannabis Farmers including fees

No.	Country	Legislation, Regulations, Policies
1	Saint Vincent & the Grenadines	Yes 1. Traditional Cultivators allowed an amnesty for one year during which they can sell cannabis to a licensed purchaser 2. A traditional cultivator can apply for a license to farm up to 5 acres of land for two years without paying a license fee. Financially, apart from national ID card, birth certificate and other documents, it costs $100.00 EC to process the application 3. Each investor with a cultivation license must purchase 10% of production from traditional cultivator
2	Jamaica	To a small extent 1. (R) A person may apply for a cultivator's license to grow ganja on land of 4,047 m^2 (1 acre) or less 2. (R 32) Special provision for a waiver of the payment of any fee, or security deposit; deferment of payment; or enter into an

		agreement to pay fee or security in increments over a stated period. These must be approved by the Minister responsible for CLA after consultation with the Minister of Finance 3. A Tier-1 Cultivator pay an application fee of US$ 300, annual license fee of US$ 2,000; security bond of US$ 1,000 and have the start-up capital expenses as well means to pay other expenses
3	Barbados	No
4	Saint Lucia	No
5	Antigua & Barbuda	No
6	Trinidad and Tobago	No

Appendix B

ICCR, TNI and IDPC Briefing paper:

WHO Cannabis rescheduling and its relevance for the Caribbean

Vicki J. Hanson, Dania Putri and Pien Metaal

Executive Summary

Following its first-ever critical review of cannabis, in January 2019 the World Health Organization issued a collection of formal recommendations to reschedule cannabis and cannabis-related substances. 53 member states of the Commission on Narcotic Drugs (CND), 2 of which are Caribbean states, are set to vote on these recommendations in December 2020.

Among the WHO's recommendations, two in particular appear to be the most urgent and relevant for Caribbean countries: namely recommendation 5.1 (concerning the acknowledgment of cannabis' medicinal usefulness) and recommendation 5.4 (concerning the need to remove the term 'extracts and tinctures of cannabis' from the 1961 Convention). Supporting these two recommendations presents an opportunity for Caribbean governments and civil society to decolonise drug control approaches in the region, as well as to strengthen the international legal basis for emerging medicinal cannabis programmes in several Caribbean countries. Also, it provides the historical opportunity to gain global recognition for two deeply rooted and unique traditions: the use of cannabis as sacrament in religious Rastafarian practise, and its use as traditional medicine, particularly but not exclusively by the Maroon community.

In this regard, the recommended principle 'asks' for Caribbean advocates and policy makers are to:

- Support the most urgent recommendations 5.1 and 5.4.
- Actively engage with CND members, in particular Jamaica, the only English speaking Caribbean member of CND, emphasising the urgent nature of recommendations 5.1 and 5.4.
- Actively engage in relevant meetings and processes at the CND level, as well as emphasising the need for further follow-ups to the critical review.
- Actively engage and encourage support from other Caribbean governments and other key stakeholders such as CARICOM and OECS, as well relevant civil society organisations, experts, and affected communities.

Background: Cannabis and the UN drug scheduling system

Around the world, most national legislations relating to the consumption, production, and distribution of cannabis and cannabis-related substances are rooted in the current global drug control system as institutionalised by the three main UN drug conventions.[i] Over 300 substances listed under these conventions are subject to varying degrees of control depending on the categories in which they have been scheduled, 'defined according to the dependence potential, abuse liability and therapeutic usefulness of the drugs included in them'.[ii] It is thus crucial to note that these UN drug conventions exist to ensure the global (legal) trade in, production, and use of controlled substances for medical and scientific purposes, while aiming to prevent diversion to the illegal market which typically caters to non-medical and non-scientific needs.

From the moment that the 1961 Convention was first negotiated, cannabis has been included in the most restrictive sections – Schedule I and IV – along with drugs such as heroin and fentanyl. Schedule IV in particular is designated – incorrectly, in the case of cannabis – for substances with limited 'therapeutic advantages'.[iii] However, one of the essential chemical components of cannabis, dronabinol/Δ9-tetrahydrocannabinol (THC), is listed separately in the less restrictive Schedule II of the 1971 Convention.[iv]

As reiterated by experts of various backgrounds, the manner in which substances are categorised and controlled at the UN level is largely based on cultural and political ideologies, rather than on impartial scientific assessment[v] of each substance's potential harm for its users and their surroundings. In fact, the level of health and social harms of cannabis (as well as other strictly controlled drugs such as LSD and MDMA) is proven to be lower than others currently placed in the same category (cocaine, heroin), and also lower than legally regulated substances like tobacco and alcohol (Figure 1).[vi]

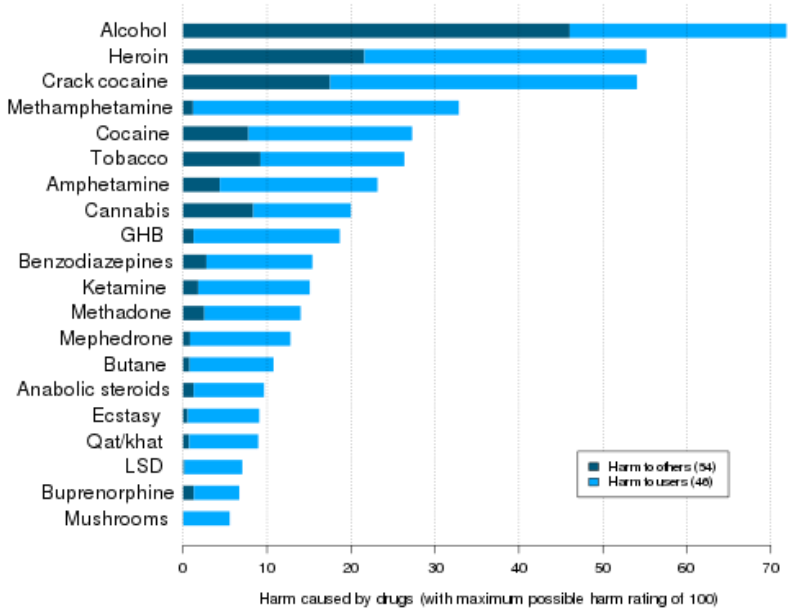


Figure 1: Relative harms of selected psychoactive substances (source: Wikimedia Commons)[vii]

Furthermore, as articulated by the WHO, 'preparations of cannabis have shown therapeutic potential for treatment of pain and other medical conditions such as epilepsy and spasticity associated with multiple sclerosis'[viii] – to name only a few. By early 2020, over 30 countries have developed some kind of legal framework for the legal use of medicinal cannabis.

As reflected in global trends,[ix] cannabis remains the most widely used illegal substance in the Caribbean region especially Jamaica, but not exclusively, where cannabis is grown by rural communities with few other viable alternative livelihoods.[x] In most Caribbean countries, the (restricted) status of cannabis corresponds to that prescribed by the UN drug conventions, and hence the continued punitive approach to cannabis consumption, trade, and cultivation. In recent years, however, a number of Caribbean

countries have adopted different forms of legislative changes to regulate cannabis cultivation, with Jamaica leading the way as the first Caribbean country to decriminalise small-scale cultivation for personal use and ceremonial usage. Other countries have taken (or are taking) steps to allow cannabis production for medical, industrial, and/or research purposes, most notably St. Vincent and the Grenadines who granted an Amnesty to cannabis growers and designed a cannabis licencing system to be inclusive for traditional cannabis farmers. [xi]

The WHO's first ever critical review of cannabis

As mandated by the UN drug conventions, the World Health Organization (WHO) Expert Committee on Drug Dependence (ECDD)[xii] serves as a body whose task is to assess a substance's potential harm and medicinal usefulness, primarily from a public health perspective, and to provide scheduling-related recommendations for member states at the UN Commission on Narcotic Drugs (CND).

Being one of the first substances (together with coca and opium) scheduled under international control, cannabis was not subject to a WHO critical review until 2018. The results of this first-ever critical review of cannabis were published in January 2019, along with a list of recommendations for the rescheduling of cannabis and cannabis-related substances (Figures 2 and 3).

Figure 2: WHO recommendations on cannabis and cannabis-related substances (source: UNODC)[xiii]

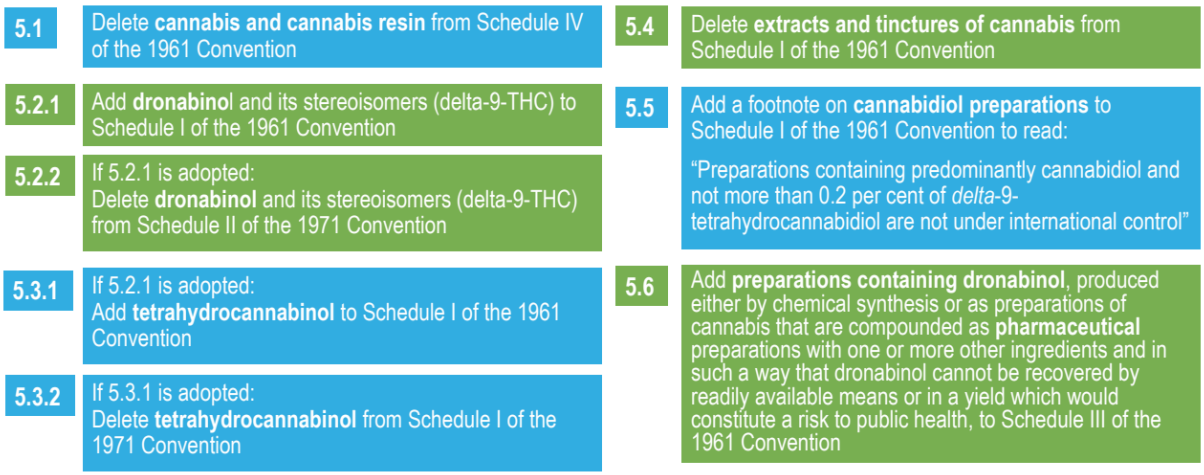
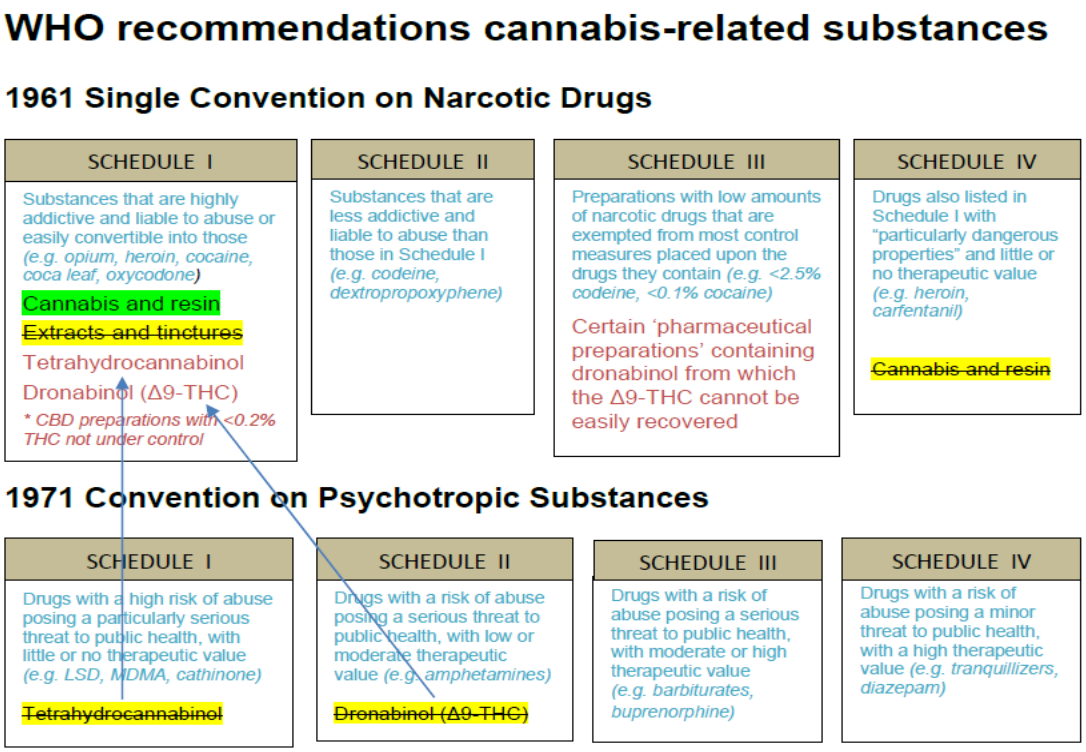


Figure 3: Implications of WHO recommendations on cannabis and cannabis-related substances



(source: TNI)

Main implications of the WHO's recommendations

Acknowledgement of cannabis' medicinal usefulness (recommendation 5.1)

The current status of cannabis in Schedule I of the 1961 Convention means that cannabis is considered as 'highly addictive and liable to abuse'.[xiv] The additional mention of cannabis in Schedule IV of the 1961 Convention implies that cannabis contains 'particularly dangerous properties'[xv] with little or no therapeutic value. The WHO recommends (5.1) the removal of cannabis from Schedule IV, which, if adopted, would mean that the medicinal usefulness of cannabis would be implicitly acknowledged under the UN drug control system. However, even if this recommendation is not followed by the CND, Caribbean countries could still move ahead with allowing medical cannabis, as the imposition of full prohibition for medical purposes has always been optional.[xvi] In this regard, it is important to note that the WHO recommends keeping cannabis in Schedule I of the 1961 Convention, even though the WHO's assessment shows that cannabis does not pose 'the same level of risk to health of most of the other drugs that have been placed in Schedule I'.[xvii]

Moving THC into the 1961 Convention (recommendations 5.2.1, 5.2.2, 5.3.1 and 5.3.2)

At present, dronabinol/Δ9-THC – either naturally obtained from plant materials or synthetically produced – is placed under Schedule II of the 1971 Convention. Following their critical review, the WHO now recommends (5.2.1) that dronabinol/Δ9-THC (and six other isomers of THC) to be added to the stricter Schedule I of the 1961 Convention. This is one of the main consequences of the decision to recommend keeping cannabis in Schedule I: because of the 'similarity principle', THC should be included in the same schedule as cannabis, despite the fact that the ECDD in previous critical reviews of dronabinol/Δ9-THC recommended it to be scheduled in Schedule II and even III of the 1971 Convention that require substantially less strict controls.[xviii] Only if these recommendations (5.2.1 and 5.3.1) are adopted would CND members then vote on whether dronabinol/Δ9-THC and the isomers should be deleted from the 1971 Convention (recommendations 5.2.2 and 5.3.2).[xix]

Exempting preparations containing cannabidiol (CBD)[xx] with <0.2% THC from international control (recommendations 5.4 and 5.5)

Following recommendations to keep cannabis in and add dronabinol/Δ9-THC into Schedule I of the 1961 Convention, the WHO also recommends (5.4) deleting the term 'extracts and tinctures of cannabis' from Schedule I of the 1961 Convention. In this regard, the WHO recommends (5.5) including a footnote stating that non-psychoactive CBD-containing preparations (which technically cover 'extracts and tinctures') with not more than 0.2% THC[xxi] are not under international control.[xxii] Such CBD-containing preparations[xxiii] could range from medicinal oil to food and wellness products. However, psychoactive 'extracts and tinctures' which typically contain higher levels of THC, such as butane hash oil and edibles, would still be subject to the same control as other substances listed in Schedule I of the 1961 Convention.

Less control and restrictions for 'pharmaceutical preparations containing THC' (recommendations 5.4 and 5.6)

The WHO's last recommendation is based on the growing legitimacy of approved pharmaceutical products such as Sativex and Marinol, which 'are not associated with problems of abuse and dependence and they are not diverted for the purpose of non-medical use.'[xxiv] According to the WHO, these pharmaceutical preparations – which may contain naturally obtained or chemically synthesised THC – should be moved into Schedule III of the 1961 Convention, though it remains unclear what the implications of this recommendation (5.6) would be for other 'natural cannabis extracts with medicinal properties'[xxv] – many of which may not necessarily qualify as 'pharmaceutical preparations'[xxvi] as mentioned by the WHO.

The relevance of these recommendations for Caribbean countries

Of the 193 UN member states, 53 are selected at any one time to be 'members' of the CND, 2 of which are from the Caribbean region. At the moment, these countries are Jamaica and Cuba.[xxvii] Although all governments are able to participate in CND meetings and discussions, only these 53 member states are able to vote on the WHO recommendations on scheduling. In December 2020, the CND is set to vote on

the aforementioned recommendations on cannabis and cannabis-related substances – having already delayed a vote in both March 2019 and March 2020 to allow for further consideration. The vote outcomes would be legally binding for all signatories of the 1961 and the 1971 Convention (including Jamaica and all other Caribbean states[xxviii]), requiring states to amend relevant national drug laws and scheduling accordingly. However, it should be made clear that adopting these recommendations would not necessarily *obligate* national governments to initiate legal medical cannabis programmes in their respective countries.

Nevertheless, as we move forward, several questions arise. How relevant are the WHO's recommendations for Caribbean countries? What would rescheduling cannabis at the UN level mean for Caribbean countries, especially considering the origins, historical use and transformation of cannabis-related policies in the Caribbean? And could they in the future offer benefits and legal alternatives for the thousands of traditional small farmers in countries like Jamaica, Saint Vincent and the Grenadines, Antigua and Barbuda, Saint Lucia and other Caribbean states, who are currently still dependent on cultivating cannabis for the unregulated market?

Decolonisation of drug control

The WHO recommendation to remove cannabis from Schedule IV of the 1961 Convention (5.1) may serve as an opportunity for Caribbean civil society and governments to further decolonise drug control approaches in the region and recognize the cultural right of groups such as the Maroons and Rastafarians, that has not been claimed at a global level yet by challenging the discourse that has long undermined the medicinal potential of cannabis and reclaim cultural and traditional use of the plant.

In most Caribbean small island states, cannabis has a long history of restriction and prohibition. It is argued by some scholars that this prohibition of cannabis is mainly based on social factors and historical and racial prejudices. A study by Rubin and Comitas on ganja (cannabis) in Jamaica highlighted that the Evangelical Churches in 1912 raised the concern that ganja smoking was resulting in serious social upheaval because it made persons behave immorally and without any mental control[xxix]. It was argued then that this type of behaviour was mainly from East Indians who had been brought to the island as indentured labourers. The study showed that the laws relating to cannabis became severely and increasingly prohibitive between 1913 and 1961. The severity of the laws prohibiting ganja in Jamaica was also being influenced by legislative changes and the global social and economic challenges that were being experienced because of the Great Depression of 1938. In 1937 there was the implementation of the Marihuana Tax Act in the USA that brought with it an increased public campaign against ganja, which as stated before was associated with deviant behaviour. [xxx]

The literature shows that historically cannabis law in the Caribbean, sought to discuss how cannabis regulations impacted the lives of persons in the region by highlighting the number of cases that were brought before the courts in the various countries[xxxi]. It is also noted in the literature that the societies in the Caribbean did not view the use of ganja as a major social problem, and it was not until after the Opium Conference at The Hague in 1912, that Colonial Government in the region decided to prohibit the cultivation and use of the plant. It was noted in this study that in countries that had a strong East Indian culture, such as Guyana and Trinidad and Tobago there was the regulation of ganja cultivation, sale and possession under a licensing system. In the case of Trinidad and Tobago, the "Ganja Ordinance" which

was in place until 1928, allowed for the cultivation, possession and selling of ganja by granting of a licence to persons who paid an annual fee to the colonial authority [xxxii]. The "Ganja Ordinance" also required the premises from which the ganja would be traded be registered with the authority, and outlined several parameters for under which the product could be traded. This signalled an existing legal structure within the cultural fabric of these Caribbean societies which has a strong East Indian component. However, with continued debate at the international level resulted in a number of Caribbean countries, such as Guyana, Trinidad and Tobago, and Jamaica changing their approach to ganja even though it was culturally accepted.[xxxiii]

Medicinal cannabis programmes

Indeed, the colonially rooted discourse that disregards cannabis' medicinal usefulness has slowly faded in the Caribbean, as more and more countries are eyeing the socioeconomic prospect of legally regulating cannabis for medicinal, industrial and scientific purposes. Even though the current institutional framework of the UN drug control regime does not serve as a barrier for such efforts,[xxxiv] transforming the status of cannabis within the UN drug scheduling system would strengthen the international legal basis for these emerging medicinal cannabis programmes. In accordance with this development, the CARICOM report "*Waiting to Exhale – Safeguarding our Future through Responsible Socio-Legal Policy on Marijuana*", completed and presented in 2018, advocates for not only a medicinal framework, but has also noted in its recommendations that cannabis policies in the region should likewise focus on "human rights, social justice and development perspectives".[xxxv]

The WHO's recommendation (5.1) to delete cannabis from Schedule IV of the 1961 Convention appears relevant as its adoption would further legitimatise the international status of cannabis as (a source of) medicine. Meanwhile, the WHO's recommendation to loosen control measures for certain medicinal preparations (5.4, 5.5, and 5.6) could in principle constitute another opportunity for Caribbean countries interested in developing a domestic (and potentially export-oriented) legal cannabis industry. However, governments and civil society need to remain cautious and ensure that the door for the more natural herbal preparations is not closed via these developments. Furthermore, the explicit reference to 'pharmaceutical preparations' and underlining of products like Sativex and Marinol in Recommendation 5.6 may pose challenges for countries with a long history of therapeutic use of cannabis preparations which are more herbal and traditional in nature,[xxxvi] such as the Maroons in Jamaica and Guyana This seems to contradict the renewed importance the WHO is giving to promoting traditional medicines in general.[xxxvii]

Inevitably, the establishment of legal medicinal cannabis programmes in the Caribbean would yield considerable impact on thousands of rural working people currently dependent on illegal cannabis cultivation.[xxxviii] Such communities have so far been largely excluded from the emerging legal market, and would likely continue to be so should the UN drug control regime evolve into an institution that increasingly favours large corporations, many of which have enjoyed preferential treatment in licensing systems of medical cannabis production around the world,[xxxix] including in Jamaica and Saint Vincent and the Grenadines. Given that, some recommendations of the WHO, particularly the transfer of THC from the 1971 to the 1961 Convention and 5.5 and 5.6, should be approached with caution. Approving them in their current form with the extremely low threshold of 0.2% and the phrasing 'pharmaceutical preparations' appears to give preferential treatment to big companies over more traditional cultivation

techniques and herbal medicines. On the other hand, support for Recommendation 5.1 and 5.4 appears more urgent and potentially more fruitful, particularly in the context of scientific and policy development on medicinal cannabis that is based on public health and human rights principles. In support of this, Article 28 of the 1961 Convention requires countries to establish specialised government agencies responsible for maintaining control over production of and trade in medicinal cannabis.

Next steps: timelines and the 'advocacy asks' for Caribbean governments

Given the early inclusion of cannabis in the international drug control regime, the WHO's critical review of cannabis had long been overdue. While fully respecting the independent and critically important role that the WHO ECDD plays, many feel that the recommendations could have been more far-reaching in nature. Critics have questioned the WHO's decision not to recommend deleting cannabis from Schedule I of the 1961 Convention, especially since the WHO's own risk assessment shows that cannabis does not belong there.[xl] Considering the rapidly advancing scientific research in cannabis, a more regular review of the plant would be advisable to update scheduling considerations with new scientific insights about the plant in order to preserve the integrity of the international scheduling system. Notwithstanding this, the political significance of the WHO's critical review of cannabis is not to be underestimated, nor are its' resulting recommendations, which represent an opportunity towards the modernisation of the UN drug control system (and, by extension, of national drug control policies in Africa and worldwide). In this regard, active engagement from civil society and governments is needed to encourage a positive outcome at the CND.

Timeline for advocacy

At the CND in early March 2020, member states agreed by consensus to delay a vote and 'continue… the consideration of the recommendations of the World Health Organization on cannabis and cannabis-related substances, bearing in mind their complexity, in order to clarify the implications and consequences of, as well as the reasoning for, these recommendations, and decides to vote at its reconvened sixty-third session in December 2020, in order to preserve the integrity of the international scheduling system'.[xli]

Member states have continued discussions since March via informal (closed and unrecorded) consultations being held online (due to the global COVID-19 pandemic that has taken hold since the CND was held in March). A series of three so-called 'Topical Meetings' have now also been scheduled to take place on 24-25 June (online again - with a focus on 'extracts and tinctures' and CBD), 24-25 August (on THC and preparations) and 16-17 September 2020 (on deletion from Schedule IV). These 'Topical Meetings' are a new structure, but disappointingly appear to remain informal in nature with no translation, no web-casting or recording, and no invitation for civil society observers (as would have been the case for a formal meeting, according to UN rules). However, member states have been encouraged to include 'experts' on their delegations for the 'Topical Meetings', which can include experts from civil society. Member states have also been invited to make written submissions.

This series of 'Topical Meetings' will then be followed by a formal CND intersessional meeting on 18 September 2020, which should be possible for civil society to attend and request to intervene. On 12-16 October the WHO Expert Committee will hold its next meeting, opening the possibility that they could

reconsider some of the recommendations if the CND discussions have given them convincing arguments of a social, legal or administrative nature to do so (the CND does not have a mandate to challenge the WHO's medical/scientific assessment).

The 63rd Reconvened CND is then scheduled for the 3rd and 4th December 2020 in Vienna,[xlii] where the 53 CND members should finally vote on the WHO's recommendations. It is possible for CND members to vote only on certain recommendations, and not on others. In this regard, priority should be given to the more obvious and urgent recommendations 5.1 (to remove cannabis from Schedule IV) and 5.4 (to remove the term 'extracts and tinctures of cannabis' from the 1961 Convention).

Now it is therefore a key time for civil society advocacy across the continent to raise awareness of this 'live' process and its importance for Caribbean countries. It is important that as many Caribbean governments as possible are engaged in these discussions, and not just the 2 CND members from the region who are able to actually vote. Below we propose some of the 'advocacy asks' which NGOs can bring to their government representatives:[xliii]

Substantive ask:

- Support the more obvious and urgent recommendations: 5.1 (to remove cannabis from Schedule IV, thereby acknowledging its medical usefulness) and 5.4 (to remove the term 'extracts and tinctures of cannabis' from the 1961 Convention).
- Question the potential implications of the other recommendations for the recognition and regulation of traditional and herbal cannabis-based medicines, and request the WHO to amend some details accordingly in the upcoming ECDD meeting or to reconsider them at a later stage.

Process asks:

- Emphasise the need for follow ups to the critical review as scientific research continues to shed new light on the risks and benefits of cannabis, especially in response to the WHO recommendation to keep cannabis in Schedule I of the 1961 Convention.
- Participate and engage at the CND meetings related to the WHO's recommendations on cannabis and cannabis-related substances, especially in order to support recommendations 5.1 and 5.4, to ensure clear voting mechanisms, and to improve clarity about the WHO's recommendations and their implications.
- Engage with other governments to discuss these issues, particularly with the 2 Caribbean CND members: Jamaica and Cuba
- Engage with CARICOM on this issue to encourage their engagement and coordination, in line with the 2018 report on the Cannabis Commission.
- Actively consult and engage with relevant civil society organisations, experts, and representatives of affected communities in Caribbean countries.

References and End-Notes

[i] The three main UN drug conventions guiding today's global drug control system include the UN Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, the UN Convention on Psychotropic Substances (1971), and the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988). The different categories of controlled drugs are defined under the 1961 and the 1971 Convention.

[ii] United Nations Office on Drugs and Crime (2016), *Terminology and Information on Drugs: Third Edition*, https://www.unodc.org/documents/scientific/Terminology_and_Information_on_Drugs-E_3rd_edition.pdf

[iii] United Nations (1961), *Single Convention on Narcotic Drugs, as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961*, https://www.unodc.org/pdf/convention_1961_en.pdf

[iv] Six isomers of Δ9-THC are currently placed under Schedule I of the 1971 Convention, which is more restrictive than Schedule IV of the 1961 Convention. However, in the 41st meeting, the WHO's Expert Committee on Drug Dependence stated: 'While these six isomers are chemically similar to Δ9-THC, there is very limited to no evidence concerning the abuse potential and acute intoxicating effects of these isomers. There are no reports that the THC isomers listed in Schedule I of the 1971 Convention induce physical dependence or that they are being abused or are likely to be abused so as to constitute a public health or social problem. There are no reported medical or veterinary uses of these isomers'. Source of citation: World Health Organization (2019), *Annex 1: Extract from the Report of the 41st Expert Committee on Drug Dependence: Cannabis and cannabis-related substances*, p. 4, https://www.who.int/medicines/access/controlled-substances/Annex_1_41_ECDD_recommendations_cannabis_22Jan19.pdf

[v] Government of India (1895), *Report of the Indian Hemp Drugs Commission. Finance and Commerce Department*, https://digital.nls.uk/indiapapers/browse/archive/74908458. See also: Bewley-Taylor, D., Blickman, T. & Jelsma, M. (2014), *The Rise and Decline of Cannabis Prohibition: The History of Cannabis in the UN Drug Control System and Options for Reform* (Amsterdam: Transnational Institute). https://www.tni.org/files/download/rise_and_decline_web.pdf

[vi] Global Commission on Drug Policy (2019), *Classification of Psychoactive Substances: When Science Was Left Behind*. https://www.globalcommissionondrugs.org/reports/classification-psychoactive-substances

[vii] Wikimedia website, File:HarmCausedByDrugsTable.svg, https://commons.wikimedia.org/wiki/File:HarmCausedByDrugsTable.svg (Accessed: 22nd June 2020). Data sourced from: Nutt, D., King & L., Phillips, L., 'Drug harms in the UK: a multi-criteria decision analysis', *The Lancet*, 376:9752, DOI: https://doi.org/10.1016/S0140-6736(10)61462-6

[viii] World Health Organization (2019), *Annex 1: Extract from the Report of the 41st Expert Committee on Drug Dependence: Cannabis and cannabis-related substances*, https://www.who.int/medicines/access/controlled-substances/Annex_1_41_ECDD_recommendations_cannabis_22Jan19.pdf

[ix] United Nations Office on Drugs and Crime (2019), *World Drug Report 2019*, https://wdr.unodc.org/wdr2019/

[x] The Jamaica Gleaner (2018), *Cannabis Cultivation And Consumption Pattern In Jamaica 2017 – 2018*, http://jamaica-gleaner.com/article/news/20180926/briefing-cannabis-cultivation-and-consumption-pattern-jamaica-2017-2018

[xi] Jamaica Observer (2018), *St Vincent Parliament approves legislation decriminalising marijuana*, http://www.jamaicaobserver.com/news/st-vincent-parliament-approves-legislation-decriminalising-marijuana_152072?profile=1373; Loops News (2018), *Antigua & Barbuda moves to decriminalise marijuana for personal use*, https://www.looptt.com/content/antigua-decriminalises-marijuana-personal-use

[xii] The ECDD is 'an independent group of experts in the field of drugs and medicines. The ECDD assesses the health risks and benefits of the use of psychoactive substances according to a set of fixed criteria. These criteria are: evidence of dependence potential of the substance, actual abuse and/or evidence of likelihood of abuse, therapeutic applications of the substance'. Each year in December, '[t]he ECDD recommendations are presented by the Director General of the WHO to the UN Secretary General and the United Nations Control Narcotic Board (CND)' for consideration by the CND every March. See: World Health Organization website, *WHO Expert Committee on Drug Dependence*, https://www.who.int/medicines/access/controlled-substances/ecdd/en/ (Accessed: 22nd June 2020).

[xiii] United Nations Commission on Narcotic Drugs & United Nations Office on Drugs and Crime (2020), *WHO recommendations on cannabis and cannabis-related substances*, https://www.unodc.org/documents/commissions/CND/Scheduling_Resource_Material/Cannabis/Backdrop_status_16_January.pdf

[xiv] Bewley-Taylor, D., Blickman, T. & Jelsma, M. (2014), *The Rise and Decline of Cannabis Prohibition: The History of Cannabis in the UN Drug Control System and Options for Reform* (Amsterdam: Transnational Institute), p. 23, https://www.tni.org/files/download/rise_and_decline_web.pdf.

[xv] United Nations (1961), *Single Convention on Narcotic Drugs, 1961: As amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs 1961*, p. 3.

[xvi] A Party to the Convention is only required to follow the recommendation 'if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare'. (United Nations (1961), *Single Convention on Narcotic Drugs, 1961: As amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs 1961*, p. 3.) In other words, if a Party was of the opinion that this was not the most appropriate way, it could still decide to permit the cultivation and use of cannabis for medical purposes, as many countries indeed have done in spite of its Schedule-IV status.

[xvii] Walsh, J., Jelsma, M., Blickman, T. & Bewley-Taylor, D. (2019), *The WHO's First-Ever Critical Review of Cannabis: A Mixture of Obvious Recommendations Deserving Support and Dubious Methods and Outcomes Requiring Scrutiny* (Amsterdam: Transnational Institute), pp. 7-9, https://www.tni.org/en/publication/the-whos-first-ever-critical-review-of-cannabis,

[xviii] Ibid, pp. 9-10.

[xix] Meanwhile, questions have been raised with regard to the possible repercussions of having dronabinol/Δ9-THC and its six isomers in both the 1961 and the 1971 Convention. See: United Nations Office on Drugs and Crime website, *Decision tree depicting the conditionalities of the WHO recommendation on cannabis and cannabis-related substances*, https://www.unodc.org/documents/commissions/CND/Scheduling_Resource_Material/Cannabis/Decision_tree_depicting_the_conditionalities_of_the_WHO_recommendation_on_cannabis_and_cannabis.pdf (Accessed: 22nd June 2020).

[xx] CBD or cannabidiol is one of the principal chemical compounds found in the cannabis plant. CBD can also be chemically synthesised. In its 41st meeting, the WHO ECDD stated that 'Cannabidiol is found in cannabis and cannabis resin but does not have psychoactive properties and has no potential for abuse and no potential to produce dependence'. Source of citation: World Health Organization (2019), *Annex 1: Extract from the Report of the 41st Expert Committee on Drug Dependence: Cannabis and cannabis-related substances*, p. 4, https://www.who.int/medicines/access/controlled-substances/Annex_1_41_ECDD_recommendations_cannabis_22Jan19.pdf

[xxi] Critics have questioned the WHO's decision to limit the THC quantity threshold to only 0.2%, which may pose issues for countries who have set higher THC quantity thresholds for CBD and/or hemp products, including Ghana (0.3%) and many European countries such as Switzerland (1%).

[xxii] World Health Organization (2019), *Annex 1: Extract from the Report of the 41st Expert Committee on Drug Dependence: Cannabis and cannabis-related substances*, https://www.who.int/medicines/access/controlled-substances/Annex_1_41_ECDD_recommendations_cannabis_22Jan19.pdf

[xxiii] At its 40th meeting, the ECDD stressed that, '[t]here are no case reports of abuse or dependence relating to the use of pure CBD. No public health problems have been associated with CBD use' and that 'CBD has demonstrated effectiveness for treating at least some forms of epilepsy, with one pure CBD product (Epidiolex®) found effective in clinical studies of Lennox-Gastaut syndrome (a severe form of epileptic encephalopathy that produces various types of seizures) and Dravet syndrome (a complex childhood epilepsy disorder that has a high mortality rate), which are often resistant to other forms of medication'. See: World Health Organization (2018), 'WHO Expert Committee on Drug Dependence: Fortieth report', *WHO Technical Report Series 1013*, pp. 15-17, https://apps.who.int/iris/bitstream/handle/10665/279948/9789241210225-eng.pdf?ua=1

[xxiv] World Health Organization (2019), *Annex 1: Extract from the Report of the 41st Expert Committee on Drug Dependence: Cannabis and cannabis-related substances*, p. 7, https://www.who.int/medicines/access/controlled-substances/Annex_1_41_ECDD_recommendations_cannabis_22Jan19.pdf

[xxv] Walsh, J., Jelsma, M., Blickman, T. & Bewley-Taylor, D. (2019), *The WHO's First-Ever Critical Review of Cannabis: A Mixture of Obvious Recommendations Deserving Support and Dubious Methods and Outcomes Requiring Scrutiny* (Amsterdam: Transnational Institute), https://www.tni.org/en/publication/the-whos-first-ever-critical-review-of-cannabis, p. 11.

[xxvi] The term 'pharmaceutical preparations' (with regard to cannabis) is not mentioned or explained in the UN drug conventions, which mainly use the term 'preparations'.

[xxvii] This year, 2 Caribbean States are included and they are Cuba and Jamaica. 'In accordance with Council resolution 845 (XXXII), and 1147 (XLI), members are elected (a) from among the States Members of the United Nations and members of the specialized agencies and the Parties to the Single Convention on Narcotic Drugs, 1961, (b) with due regard to the adequate representation of countries that are important producers of opium or coca leaves, of countries that are important in the field of the manufacture of narcotic drugs, and of countries in which drug addiction or the illicit traffic in narcotic drugs constitutes an important problem and (c) taking into account the principle of equitable geographical distribution'. See: United Nations Office on Drugs and Crime website, *CND: Membership and Bureau*, https://www.unodc.org/unodc/en/commissions/CND/Membership/Membership.html (Accessed: 22nd June 2020).

[xxviii] International Narcotics Control Board, (2020), *Report of the International Narcotics Control Board for 2019*, https://www.incb.org/documents/Publications/AnnualReports/AR2019/Annual_Report_Chapters/English_ebook_AR2019.pdf

[xxix] Rubin, V., and Lambros C. (1975). *Ganja in Jamaica: A Medical Anthropological Study of Chronic Marihuana Use*. The Hague: New Babylon.

[xxx] Ibid.

[xxxi] Fraser, H. A. (1974). *The Law and Cannabis in the West Indies*. Social and Economic Studies 23 (3):361-385

[xxxii] Ibid

[xxxiii] Ibid.

[xxxiv] The overarching goal of the UN drug conventions is to help regulate the licit trade in, production, and use of controlled substances (including cannabis) for medical and scientific uses only. Governments must create and implement regulatory policies in compliance with specific articles of each of the three drug conventions, as mapped in this table: United Nations Commission on Narcotic Drugs (2019), *Questions and answers relating to WHO's recommendations on cannabis and cannabis-related substances*, pp. 96-100, https://www.unodc.org/documents/commissions/CND/Scheduling_Resource_Material/Cannabis/Consultations_with_WHO Questions_and_Answers_26_November_2019.pdf

[xxxv] See Report Of The CARICOM Regional Commission On Marijuana (2018), *Waiting To Exhale – Safeguarding Our Future Through Responsible Socio-Legal Policy On Marijuana*, https://caricom.org/documents/report-of-the-caricom-regional-commission-on-marijuana-2018-waiting-to-exhale-safeguarding-our-future-through-responsible-socio-legal-policy-on-marijuana/

[xxxvi] 'Cannabis as an herbal medicine poses serious challenges to modern medicine, which operates according to the "single compound, single target" paradigm of pharmacology'. See: Hazekamp, A. & Fischedick, J. T. (2012), 'Cannabis - from cultivar to chemovar', *Drug Test. Analysis*, (New Jersey: John Wiley & Sons), https://bedrocan.com/wp-content/uploads/2012-cannabis-from-cultivar-to-chemovar_hazekamp.pdf

[xxxvii] World Health Organization (2013), *WHO Traditional Medicine Strategy 2014–2023,* https://apps.who.int/iris/bitstream/handle/10665/92455/9789241506090_eng.pdf

[xxxviii] Jelsma, M. (2018), *Connecting the dots… Human rights, illicit cultivation and alternative development*, (Amsterdam: Transnational Institute). https://www.tni.org/en/publication/connecting-the-dots

[xxxix] Jelsma, M., Kay, S. & Bewley-Taylor, D. (2019), *Fair(er) Trade Options for the Cannabis Market. Cannabis Innovate*, (Amsterdam: Transnational Institute) https://www.tni.org/en/publication/fairer-trade-cannabis

[xl] In its 41st report, the WHO Expert Committee on Drug Dependence states that '[w]hile the Committee did not consider that cannabis is associated with the same level of risk to health as that posed by most of the other drugs placed in Schedule I, it noted the high rates of public health problems arising from cannabis use and the global extent of such problems. For these reasons, it recommended that cannabis and cannabis resin continue to be included in Schedule I of the 1961 Single Convention on Narcotic Drugs'. See: World Health Organization (2018), 'WHO Expert Committee on Drug Dependence: Fortieth report', *WHO Technical Report Series 1013*, p. 41, https://apps.who.int/iris/bitstream/handle/10665/279948/9789241210225-eng.pdf?ua=1, p. 41.

[xli] United Nations Commission on Narcotic Drugs (2020), *Draft decision submitted by the Chair: Changes in the scope of control of substances: proposed scheduling recommendations by the World Health Organisation on cannabis and cannabis-related substances*, UN Doc. E/CN.7/2020/L.8, https://undocs.org/E/CN.7/2020/L.8

[xlii] United Nations on Drugs and Crime website, *Events*, https://www.unodc.org/unodc/en/commissions/CND/CND_Meetings-Current-Year.html (Accessed: 22nd June 2020).

[xliii] If you want to learn which government officials and agencies are already engaged in CND discussions from your country, you can view the official list of participants from the March 2020 meeting here: United Nations Commission on Narcotic Drugs (2020), *List of Participants: Members of the Commission on Narcotic Drugs*, UN Doc. E/CN.7/2020/INF/2, https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/LoP_63_CND_Final_V2001716.pdf

Appendix C

Participating individuals workshop

Conagal Christian Aka (Antigua and Barbuda)

Rose Marie Antoine (Trinidad and Tobago)

Pedro Arenas (Colombia)

Saboto Caesar (Saint Vincent and the Grenadines)

Andre de Caires (St Lucia)

Julian Caicedo (Colombia)

Alvin Collin (Saint Vincent and the Grenadines)

Junior Cottle (Saint Vincent and the Grenadines)

Jaime Diaz (Colombia)

Vicki Hanson (Jamaica)

Annette Henry (Jamaica)

Sylvia Kay (Netherlands)

Greg Linton (Saint Vincent and the Grenadines)

Terral Mapp (Saint Vincent and the Grenadines)

Ras Milla (Antigua and Barbuda)

Pien Metaal (Netherlands)

Ryan Morrison (Jamaica)

Andrew Quintyne (Barbados)

Rene Roemersma (The Netherlands)

Osa Samual (Saint Vincent and the Grenadines)

Robert Stephen (Saint Vincent and the Grenadines)

Jason Young (Saint Vincent and the Grenadines)

John Walsh (United States of America)

Contact address Working Group: wgcannabiscaribbean@gmail.com