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February 16, 2024

Anne M. Milgram
Administrator
Drug Enforcement Administration
700 Army Navy Drive
Arlington, VA 22202

Dear Administrator Milgram,

As the U.S. Drug Enforcement Administration (DEA) continues its review of the U.S. Department of Health and Human Services' (HHS) recommendation regarding marijuana's Schedule I classification under the Controlled Substances Act (CSA), I write to urge you to reject any argument in support of maintaining marijuana in Schedule I or Schedule II based on U.S. Treaty obligations.[1] Applicable Treaties neither require the U.S. to keep marijuana in Schedule I or II nor do they preclude the DEA from accepting HHS's recommendation. Cannabis should be removed from the Controlled Substances Act (CSA) schedule entirely; however, I acknowledge that the rescheduling of cannabis is a historic first step to addressing the harms of the War on Drugs, which is why I want to ensure that U.S. Treaties are not considered as a potential reason against rescheduling or de-scheduling marijuana.

The U.S. is not required under any applicable Treaty to keep marijuana in a specific CSA schedule or in the CSA at all. So long as certain requirements are met, these Treaties provide the U.S. with the flexibility to classify relevant substances based on scientific and medical evidence and how such evidence informs the application of domestic laws like the CSA in a manner that promotes public health, safety, and welfare. This understanding of applicable Treaties is not novel and finds support in DEA precedent in the marijuana context specifically. In 2018, for example, DEA moved Epidiolex, a marijuana-based drug, to Schedule V. With Epidiolex, DEA ensured it could meet domestic and international obligations by controlling the drug in Schedule V and simultaneously amending its regulations to carry out its Treaty obligations.

The overarching goal of these Treaties is to further public health, safety, and welfare in each signatory country. Given the devastating effects that the Schedule I classification and punitive approach to marijuana have had on Black communities and communities of color in the U.S., not to mention the public health risks the unregulated market for marijuana-based products poses, and that marijuana has medical use as confirmed by the HHS, adopting the HHS recommendation

[1] The U.S., along with most of the world, is a party to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol (the "Single Convention"), the 1971 Convention on Psychotropic Substances (the "'71 Convention"), and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the "'88 Convention", together with the '71 Convention and the Single Convention, the "Treaties").

would advance the Treaties' core purposes of promoting public health, safety, and welfare. Moreover, leaving marijuana on Schedule 1, or even moving it to Schedule II, would be unjustifiable under the CSA since HHS has already acknowledged that marijuana has a currently accepted medical use in treatment and a lower potential for abuse than substances listed on Schedule II.

I respectfully request that the DEA respond to the following questions by March 15, 2024:

1. Is it the DEA's position that applicable treaty obligations preclude the agency from adopting the HHS's recommendation to transfer marijuana to Schedule III?
2. Who has attempted to influence the DEA's views on applicable treaty obligations and the proposed reclassification of marijuana? Please provide a log of all meetings DEA staff have taken with outside partners on this matter.
3. Has the DEA consulted with the U.S. Department of State or any expert agency outside of the U.S. Department of Justice regarding treaty obligations and the pending administrative process to reconsider marijuana's Schedule I classification?

Rescheduling marijuana to Schedule III is a welcomed move towards mitigating the devastating impacts that marijuana's place on the CSA has caused. As an advocate for the removal of marijuana from the CSA, I recognize that rescheduling serves as an initial stride toward achieving the ultimate goal of decriminalization. Therefore, at minimum, I ask that you follow HHS recommendations and reschedule marijuana to Schedule III and reject any argument in support of maintaining marijuana in Schedule I or Schedule II based on U.S. Treaty obligations.

Thank you for your attention to this matter. I look forward to your prompt response.

Sincerely,

Sydney Kamlager-Dove
Member of Congress