SACHIDA
South African Cannabis and Hemp Industry Development Association

WRITTEN CONTRIBUTION TO THE EXPERT PANEL ESTABLISHED PURSUANT TO COMMISSION ON NARCOTIC DRUGS RESOLUTION 68/6

Submitted by: The South African Cannabis and Hemp Industry Development Association (SACHIDA) NPC, Registration No. 2024/512763/08

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1. About SACHIDA

SACHIDA is a non-profit industry association representing stakeholders across South Africa's cannabis and hemp value chain, including Indigenous Knowledge Systems (IKS) organisations, legacy growers, small-scale and emerging farmers, processors, traders and service providers. It was formed through a four-month consultation with more than 25 industry role players, and its constitution and three-year business plan were adopted on 29 July 2024. SACHIDA engages South African government departments on legislation and regulation, and supports community-based members to participate in the lawful economy. This contribution draws on that practical experience of implementing the international framework at national level.

2. National context

South Africa's experience illustrates both the flexibility of, and the tensions within, the current treaty system:

- On 18 September 2018, in *Minister of Justice and Constitutional Development and Others v Prince* [2018] ZACC 30, the Constitutional Court unanimously held that criminalising the use, possession and cultivation of cannabis by an adult in private for personal consumption unjustifiably limits the right to privacy in section 14 of the Constitution. The Court confirmed that the prohibition on dealing remains a justifiable limitation.
- Parliament gave effect to the judgment through the Cannabis for Private Purposes Act 7 of 2024, assented to on 28 May 2024. The Act removes cannabis from the Drugs and Drug Trafficking Act, 1992, provides for the expungement of criminal records for certain cannabis offences, and keeps dealing prohibited. It has not yet commenced; draft regulations were published for public comment in February 2026.

- Since 1 December 2025, the Plant Improvement Act 11 of 2018 has regulated hemp as an agricultural crop, with a THC threshold of 2% in leaves and flowering heads, a level set in response to local growing conditions, including intense ultraviolet exposure.
- Cannabis for medicinal purposes is licensed separately by the South African Health Products Regulatory Authority (SAHPRA) under the Medicines and Related Substances Act, 1965.
- On 2 December 2020, South Africa voted in favour of removing cannabis and cannabis resin from Schedule IV of the 1961 Single Convention.

3. Acknowledging the human right to private cannabis use

SACHIDA respectfully asks the Panel to acknowledge that, in South Africa, the private use, possession and cultivation of cannabis by adults for personal consumption is protected as an aspect of the constitutional right to privacy. This protection is not a policy preference that a government may simply reverse; it flows from the Bill of Rights as interpreted by the country's highest court.

In resolution 68/6 the Commission recognised that the abiding concern of the conventions is the health and welfare of humankind. SACHIDA submits that effective and credible implementation of the conventions must be consistent with Parties' human rights obligations and constitutional orders, as reflected in the UN System Common Position on drug policy (2018), which commits the UN system to human rights-based and development-oriented responses. Where an apex court has found that criminal penalties for private adult use are unconstitutional, the international system should engage constructively with that Party, rather than treating rights-based implementation solely as a compliance problem.

4. Implementation challenges

4.1 Uncertainty about industrial hemp

Article 28(2) of the 1961 Convention provides that the Convention shall not apply to cultivation of the cannabis plant "exclusively for industrial purposes (fibre and seed) or horticultural purposes". Differing interpretations of whether "industrial purposes" extends beyond fibre and seed, for example to the leaves and flowers of low-THC plants used in non-intoxicating products, create legal uncertainty that discourages investment, finance and export, particularly for smaller producers.

4.2 No continuing place for traditional and indigenous knowledge

Under Article 49 of the 1961 Convention, traditional non-medical uses of cannabis could be permitted only transitionally and had to be discontinued within twenty-five years. South African communities have long histories of cannabis cultivation and use in traditional medicine and culture, and maintain landrace cultivars of genetic and cultural value. The treaty framework offers no ongoing mechanism to recognise these practices, despite the United Nations Declaration on the Rights of Indigenous Peoples (2007), which affirms rights to

traditional medicines, health practices and the conservation of vital medicinal plants (Article 24), and to traditional knowledge, seeds and genetic resources (Article 31).

4.3 Exclusion of legacy growers and rural communities

Communities that historically cultivated cannabis, often in rural areas with few other economic options, bore the heaviest burden of criminalisation, yet face the highest barriers to licit markets: costly licensing, security and infrastructure requirements designed for large operators, and limited access to capital, land and laboratory testing. Without deliberate inclusion, the licit market risks reproducing historical exclusion.

4.4 Fragmented national administration

In South Africa, responsibility is divided between the justice, health, agriculture and trade authorities. This complicates compliance and reporting for producers. International guidance that focuses primarily on control, rather than on coherent and proportionate regulation, offers Parties little practical assistance.

4.5 The supply gap for lawful private use

Adults in South Africa may lawfully use and cultivate cannabis in private, but because dealing remains prohibited there is no lawful way to obtain cannabis other than growing it oneself. Supply is therefore left to unregulated markets without quality or safety controls, and the rural growers who have historically met this demand remain outside the law. Government's National Cannabis Master Plan anticipates separate value chains for medicinal cannabis, hemp and adult use. SACHIDA supports a responsible, regulated adult-use framework that prioritises public health, the protection of children and the inclusion of legacy growers. We recognise that such a framework raises questions under Article 4(c) of the 1961 Convention.

5. Recommendations

1. **Clarify the industrial hemp exemption.** The Commission, with WHO and the International Narcotics Control Board (INCB), should issue interpretive guidance confirming that Article 28(2) covers cultivation of low-THC cannabis for the full range of non-intoxicating industrial uses, and recognising that Parties may set science-based THC thresholds suited to national growing conditions.
2. **Affirm human rights and constitutional compliance.** Implementation, monitoring and INCB dialogue with Parties should explicitly take account of Parties' human rights obligations and binding domestic court judgments, including those protecting private adult use, drawing on the UN System Common Position.
3. **Create a pathway for traditional and indigenous knowledge.** A process involving WHO and relevant UN human rights mechanisms should consider how traditional, cultural and medicinal uses of cannabis by Indigenous and local communities can be recognised, and how landrace genetic resources can be conserved with fair benefit-sharing, consistent with UNDRIP.

4. **Put development and inclusion at the centre.** UNODC technical assistance and INCB estimates and licensing systems should support proportionate, tiered licensing for small-scale and legacy producers in medical, scientific and industrial supply chains, and development-oriented approaches should extend to communities moving from unlicensed to licit cultivation.
5. **Improve implementation data.** Indicators should be developed on access to licit markets by small-scale farmers, women and historically marginalised communities, and on the human rights impacts of enforcement, so that the 2029 review assesses outcomes for people, not only seizures and arrests.
6. **Strengthen Global South and civil society participation.** Regional consultations, including in Africa, should be held with interpretation and support for participation by farmers, traditional knowledge holders and community organisations.
7. **Address the gap between rights and supply.** The Panel should openly acknowledge that a number of Parties now regulate non-medical cannabis, and recommend that the Commission examine the evidence on public health and social outcomes, and the options available under international law for Parties in this position, rather than leave this tension unaddressed ahead of the 2029 review.

6. Conclusion

SACHIDA welcomes the Panel's work and the opportunity to contribute. South Africa's experience shows that it is possible to respect constitutional rights, maintain prohibitions on illicit dealing, and build a regulated industry that benefits rural communities. Clear guidance, rights-consistent implementation and deliberate inclusion would help the international system support, rather than hinder, that effort. SACHIDA would welcome the opportunity to provide further information or to engage with the Panel.

Yours faithfully,

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