IAJ Third Study Commission, October 2024, Cape Town, South Africa Questionnaire
Answers on behalf of CANADA

Background

The topic of the 2024 Third Study Commission of the International Association of Judges ("IAJ") is the rapid evolution of drug manufacturing and the challenges this process presents for prosecutions.[1] Much of the national and international law on this topic concerns the control and regulation of precursor chemicals or starting materials.

The key international convention for this year's topic is the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 ("1988 Convention"). Canada is a signatory to the 1988 Convention and ratified it on July 5, 1990.[2]

In Canada, Health Canada's Office of Controlled Substances ("OCS"), together with law enforcement agencies, oversee the compliance and monitoring of controlled drugs and substances.[3] The OCS aims "to ensure that drugs and controlled substances are not diverted for illegal use."[4]

The OCS's work in this area includes:[5]

- Licencing manufacturers and distributors of drugs and controlled substances and issuing import/export permits when necessary, to manage and track the movement of drugs and controlled substances across the Canadian border;
- Authorizing the disposal of illegal drugs that have been discovered or seized;
- Managing an exemption process that allows individuals with legitimate scientific or medical reasons to possess a controlled substance; and
- Working with other groups such as the law enforcement community to address compliance issues.

The OCS "works in collaboration with Canadian and international stakeholders in the public and private sectors to ensure that precursor chemicals are handled effectively and remain in legal

[1] Third Study Commission Questionnaire 2024 ("Questionnaire"), at p. 1.
[2] United Nations Treaty Collection, "Chapter VI Narcotic Drugs and Psychotropic Substances, 19. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances", online: <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=_en>.
[3] Government of Canada, "Compliance and Monitoring", online: <https://www.canada.ca/en/health-canada/services/health-concerns/controlled-substances-precursor-chemicals/controlled-substances/compliance-monitoring.html>.
[4] Government of Canada, "Drug Strategy and Controlled Substances Programme", online: <https://www.canada.ca/en/health-canada/corporate/about-health-canada/branches-agencies/healthy-environments-consumer-safety-branch/drug-strategy-controlled-substances-programme.html#ocs-bsc> ["Drug Strategy"].
[5] "Drug Strategy". The items in list are direct quotes.

distribution channels; and that valid commercial, medical and scientific activities are not interfered with."[6]

Questions

1. Does your country have legislation, or regulations, and/or court rules of procedure that are relevant to the topic of our focus this year – chemical substances and essential equipment possibly used in illicit drug manufacturing and trafficking, including importing, exporting, for domestic distribution and use and private sector due diligence.

Yes – Canada has legislation and regulation relevant to this year's topic.

Please explain.

Canada has legislation and regulation addressing precursor chemicals and equipment involved in illicit drug manufacturing.

First, the key Canadian legislation is the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 ("*CDSA*"). The list of scheduled precursors is set out in Schedule VI of the *CDSA* (see Appendix C). The *CDSA* categorizes precursors into two classes: Class A and B.

Second, the *Precursor Control Regulations*, SOR/2002-359 ("*PCR*"), made under the *CDSA*, is the primary piece of Canadian regulation relevant to this year's topic. The *PCR* provides detailed rules in this area.

Third, other regulations made under the *CDSA* may be relevant.[7]

Finally, the *Food and Drugs Act*, R.S.C. 1985, c F-27 and its associated regulations are potentially applicable to this year's topic. [8]

2. Does your country have specific legislation on precursors control?

Yes.

Title of current legislation and date of adoption:

[6] Government of Canada, "Precursor Chemicals", online: <https://www.canada.ca/en/health-canada/services/health-concerns/controlled-substances-precursor-chemicals/precursor-chemicals.html>.
[7] In addition to the *PCR*, this includes: *Benzodiazepines and Other Targeted Substances Regulations*, SOR/2000-217; *Cannabis Regulations*, SOR/2018-144; *Controlled Drugs and Substances Act (Police Enforcement) Regulations*, SOR/97-234; *Marihuana for Medical Purposes Regulations*, SOR/2013-119; *Narcotic Control Regulations*, CRC, c 1041; *New Classes of Practitioners Regulations*, SOR/2012-230; *Precursors and Controlled Substances from the Application of the Controlled Drugs and Substances Act,; Regulations Exempting Certain*, SOR/97-229; *Qualifications for Designations as Analysts Regulations*, SOR/98-594; and *Safe Food for Canadians Regulations*, SOR/2018-108.
[8] To access the list of regulation made under the *Food and Drug Act*, see here.

The *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, assented to on June 20, 1996.[9]

Last amended/updated in:

As of June 12, 2024, the *Act* was last amended on November 11, 2024.[10]

3. In your country, is an approval by a judge a pre-condition to launch investigations into a case of diversion and trafficking of precursors? Similarly, is a court order or approval by a judge required for effecting controlled or monitored deliveries?

No, judicial approval is generally not a pre-condition to launching an investigation.

The primary actor exercising control over the delivery and transportation of precursors is the Minister of Health.

Please explain:

(a) Judicial Involvement in Investigations

Approval by a judge is generally not a pre-condition to launching an investigation in Canada. Police are generally the most common investigators of *CDSA* offences and initiate most investigations for "consensual crimes" like narcotics.[11]

However, there are aspects of an investigation that may require judicial involvement, given that there are legislative, common law and constitutional rules circumscribing the legal parameters of police functions.[12] For example, s. 11(1) of the *CDSA* sets out the grounds for the issuance of a search warrant and references precursors explicitly. That section states:

> A justice who, on *ex parte* application, is satisfied by information on oath that there are reasonable grounds to believe that
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> (a) a controlled substance or precursor in respect of which this Act has been contravened,
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> (b) any thing in which a controlled substance or precursor referred to in paragraph (a) is contained or concealed,
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> (c) offence-related property, or

[9] Justice Law Website, online: <https://laws-lois.justice.gc.ca/eng/acts/c-38.8/fulltext.html#:~:text=Assented%20to%201996%2D06%2D20>.
[10] Justice Law Website, online <https://laws-lois.justice.gc.ca/eng/acts/c-38.8/#hist:~:text=last%20amended%20on%202023%2D11%2D24>; See also, Bruce A. MacFarlane, Robert J. Frater, Croft Michaelson, *Drug Offences in Canada*, 4th Edition (Thomson Reuters Canada Ltd., May 2024) ["*Drug Offences in Canada*"], which provides a history of reforms to the *CDSA.* For relevant excerpts of this text and a history of the evolution of precursor legislation and regulation, see Appendix A.
[11] David Rose, *Quigley's Criminal Procedure Canada* (Thomson Reuters Canada Ltd., June 2024) at § 1:2. The Investigative Stage; Steven Penney, Vincenzo Rondinelli, and James Stribopoulos, *Criminal Procedure in Canada, 3rd Ed.* (LexisNexis Canada Inc., 2022) at §1.02 Overview of the Canadian Criminal Process.
[12] *Quigley's* at § 1:2; *Criminal Procedure* at §1.02.

(d) any thing that will afford evidence in respect of an offence under this Act or an offence, in whole or in part in relation to a contravention of this Act, under section 354 or 462.31 of the *Criminal Code*

is in a place may, at any time, issue a warrant authorizing a peace officer, at any time, to search the place for any such controlled substance, precursor, property or thing and to seize it.

(b) Delivery and Transportation of Precursors

The Minister of Health is the primary actor exercising control over the delivery and transportation of precursors.

Under s. 2(1) of the *CDSA*, Minister means the Minister of Health.[13]

The *PCR* includes many specific rules and regulations regarding the delivery and transportation of precursors and often refers to the Minister in reference to these provisions. Examples of *PCR* sections addressing transportation and delivery include the following:[14]

- Section 9(1) states no person may send, transport or deliver a Class A precursor, or possess the precursor for such a purpose, except (a) a licensed dealer, to the extent necessary to conduct an activity permitted by the licence in respect of the precursor; (b) an agent or mandatary of the licensed dealer; (c) the end user of the precursor; or (d) an agent or mandatary of the end user.
- Under s. 9(1.1), there are documentation requirements for the sending, transportation, and delivering of Class A precursors in certain circumstances. This documentation must indicate (a) the name and quantity of the precursor; (b) the name of the licensed dealer selling or providing the precursor; (c) the name of the person to whom the precursor is being sent, transported or delivered; and (d) the date the precursor was sent.
- Under s. 9(2) a licensed dealer must, subject to further specifications in the regulation, take all steps necessary to ensure the safekeeping of the precursor during transportation or ensure that all steps are taken so as to prevent the diversion of the precursor to an illicit market or use.
- Under s. 39(1), if a Class A precursor is to be shipped from one country to another country by a route that requires it to be in transit through Canada or to be transhipped in Canada, the exporter in the country of export or an agent or mandatary in Canada of that exporter must apply to the Minister for a permit for transit or transhipment by providing certain information.
- Under s. 40, subject to s. 41, if the requirements of s. 39 are met, the Minister shall issue to the applicant a permit for transit or transhipment that contains certain information.
- Section 41 sets out the grounds for refusal of the Minister.

[13] While the *PCR* frequently references the "Minister", it contains no definition as to which Minister. Therefore, given that the *CDSA* defines Minister as the Minister of Health, it is presumed that Minister in the *PCR* also refers to the Minister of Health.

[14] Although the provisions below, and in other parts of this document do not include quotation marks, many of them are direct quotes. This has been done for stylistic reasons.

The *CDSA* also contains some provisions on the delivery and transportation of precursors. Namely, under s. 7.1 of the *CDSA*, it is an offence to transport anything intending that it will be used to produce a controlled substance, unless lawfully authorized.

4. When a drug/precursor-related crime is being investigated in your country, does the judiciary have any role (a) in the request for information from a foreign state and/or (b) in the provision of information to a foreign state?

The judiciary may sometimes be involved in requests for assistance *from* a foreign state. However, judges are more frequently involved in the provision of information *to* a foreign state.

If your answer to either (a) or (b) is yes, what legislation, regulations or rules of procedure apply to the decision of a judge involved at the investigation stage?

This question relates to mutual legal assistance ("MLA")– the process whereby "countries receive and provide assistance in the gathering of evidence for use in criminal investigations and prosecutions."[15] The key piece of Canadian legislation on this is *Mutual Legal Assistance in Criminal Matters Act*, R.S.C., 1985, c. 30 (4th Supp.) (*"MLACMA*"), assented to in 1988. By 2014, Canada was part of 35 MLA treaties and several conventions.[16]

In *Belgium v. Suthanthiran*, 2017 ONCA 343, Watt J.A. described the nature of MLA and the purpose of the *MLACMA*, at paras. 45-50:

> ***The Nature of Mutual Legal Assistance***
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> [45] Mutual legal assistance is a relationship between the governments of sovereign states. It is a relationship born of a desire on the part of both states to improve the effectiveness of both countries in the investigation, prosecution and suppression of crime through cooperation and mutual legal assistance in criminal matters.
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> [46] To formalize their mutual legal assistance relationship, the governments of sovereign states enter into treaties that define their obligations and the manner in which requests for and responses to requests for mutual legal assistance are to be carried out. In accordance with the Treaty, each party grants the other the widest measure of mutual assistance in criminal matters.
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> [47] A country that seeks legal assistance from a Treaty partner makes a Request through its central authority to the central authority of the Requested State. In this case, the request is made to and the response is made by the central authority for Canada – the Minister of Justice – or the officials designated by the Minister.
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> ***The Purpose of MLACMA***
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> [48] Treaties between sovereign states require legislation to implement them domestically. *MLACMA* is domestic legislation that implements various treaties or other arrangements on mutual legal assistance. It sets out the procedure for assistance and cooperation

[15] Government of Canada, "International Assistance Group Deskbook", online: <https://www.justice.gc.ca/eng/cj-jp/emla-eej/db-gs.html#sec3>.
[16] "Deskbook".

> to help treaty partners in their detection and investigation of crime. Among other things, it provides ways for our treaty partners to obtain information from Canadian sources to assist in investigations undertaken by the treaty partner: *Russian Federation v. Pokidyshev* (1999), 1999 CanLII 3787 (ON CA), 138 C.C.C. (3d) 321 (Ont. C.A.), at paras. 15-16.
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> [49] As a domestic statute, *MLACMA* is subject to the usual rules of statutory interpretation, which require courts to look to the words of the statute, the scheme of the Act as a whole and Parliament's intention and purpose in its passage of the legislation: *Pokidyshev*, at para. 14.
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> [50] In general terms, *MLACMA* provides for various methods of evidence collection in Canada, post-collection supervision and conveyance of the evidence collected to the Requesting Treaty Partner. The Act also assigns responsibilities to the Minister, who is responsible for the implementation of the Treaty and the administration of the Act: *MLACMA*, s. 7(1).

(a) Requests for Information from a Foreign State

There are namely three means for *obtaining* assistance:[17]

1. Treaty requests
2. Non-Treaty Letter of Requests
3. Non-Treaty Court Issued Requests

It appears that Courts are generally not involved in the request for information from a foreign state for a crime being investigated in Canada. The treaty requests for assistance form suggest that the requestor will generally be the competent prosecuting and/or investigating competent authority. For example, the Attorney General of Canada, Attorney General of a province, Metropolitan Police Force, the RCMP, or the Provincial Police.[18]

However, in some cases, judges would be involved – i.e. for non-treaty court issued requests. Under s. 709 of the *Criminal Code*, a Canadian court may "issue an Order and Request seeking commission evidence in a foreign state."[19]

(b) Provision of Information to a Foreign State

Canadian courts are involved in requests from countries. The *MLACMA* provides "Canadian courts the power to issue compulsory measures, such as evidence gathering orders, search warrants and orders for videolink testimony, to obtain evidence in Canada on behalf of a foreign state for use in a criminal investigation and prosecution being conducted by that state."[20]

The *MLACMA*, the provision of information to a foreign state, and judicial involvement in this process was described in *United States v. Equinix Inc*., 2017 ONCA 260, at paras. 4-6:

> [4] Under the Act, countries that have the appropriate treaty with Canada, like the United States, can seek the assistance of the Minister of Justice (the "minister") in locating and obtaining evidence, believed to be in Canada, relevant to a criminal investigation in the foreign country.

[17] "Deskbook".
[18] Department of Justice, "Treaty Request for Assistance", at <https://www.justice.gc.ca/eng/cj-jp/emla-eej/requdem/treaty-traite.html>.
[19] "Deskbook".
[20] "Deskbook".

> The minister can approve the use of various investigative techniques, including a search warrant. If the minister authorizes his agent to seek a search warrant, the application is made to the Superior Court. The judge may issue the warrant if the prerequisites in s. 12 of the Act are met.
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> [5] The issuing judge must fix a date after the proposed execution of the warrant for a hearing to consider whether the warrant was properly executed and, if so, whether the seized material should be sent to the foreign jurisdiction (s. 12(3) of the Act). The peace officer who executes the warrant prepares a report for the judge to consider on the return date. The report includes a description of the things seized. The person from whom the material was seized and any other person who claims an interest in the material is entitled to notice of the hearing and to make submissions at the hearing (ss. 12(4), 15(1) of the Act).
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> [6] At the hearing held under s. 15(1) of the Act, the judge must decide whether to order the seized material sent to the foreign jurisdiction. If the judge is not satisfied that the warrant was executed in accordance with its terms, or is satisfied that a sending order should not be made, the court may return the material to the person from whom it was seized, or to a person lawfully entitled to the material. If the judge is satisfied that the warrant was executed according to its terms and there is no reason why the order should not be made, the judge may order the material sent to the foreign jurisdiction: see *R. v. Gladwin*, 1997 CanLII 1288 (ON CA), [1997] O.J. No. 2479, 116 C.C.C. (3d) 471 (C.A.), at para. 8. [page532] A judge making a sending order under s. 15(1) may impose "any terms and conditions that the judge considers desirable".

Section 60 of the *Ontario Evidence Act* and ss. 46 and 47 of the *Canada Evidence Act* are also worth noting. As described by Centa J. in *Coface North America Insurance Company v. Sampson*, 2024 ONSC 331, at paras. 14-17:

> [14] Section 60 of the *Ontario Evidence Act* and ss. 46 and 47 of the *Canada Evidence Act* authorize this court to order the production of documents and the examination under oath of Ontario residents at the request of a foreign country. There are four statutory preconditions for enforcing a letter of request:
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> a. a foreign court, desirous of obtaining testimony in relation to a pending civil, commercial or criminal matter, has authorized the obtaining of evidence;
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> b. the party from whom the evidence is sought is within the jurisdiction of Ontario;
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> c. the evidence sought from the Ontario party is in relation to a pending proceeding before the foreign court or tribunal; and
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> d. the foreign court or tribunal is a court or tribunal of competent jurisdiction.
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> [15] … Meeting the statutory prerequisites is necessary but not sufficient to justify granting a letter of request. The fundamental principle to be applied in considering such a request is recognition of the comity of nations: that one sovereign nation voluntarily adopts or enforces the laws of another out of deference, mutuality, and respect. As a result, a foreign request is to be given full force and effect unless it is contrary to the public policy, or otherwise prejudicial to the sovereignty or the citizens, of the jurisdiction to which the request is directed…
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> [16] The Court of Appeal for Ontario has identified six guideposts, which are not exclusive, that are to be considered by a court when considering whether or not to exercise its discretion to enforce a letter of request:

a. Is the evidence sought relevant?

b. Is the evidence sought necessary for trial and will it be adduced at trial if admissible?

c. Is the evidence sought not otherwise obtainable?

d. Is the order sought contrary to public policy?

e. Are the documents sought identified with reasonable specificity?

f. Is the order sought not unduly burdensome, having in mind what the relevant witnesses would be required to do and produce if the action was tried here?

[17] Ontario courts will enforce letters rogatory that are not contrary to the public policy of Canada and Ontario, and if there is no prejudice to the sovereignty or the citizens of Canada.

[Citations omitted.]

5. Does your country have legislation or court rules that relate to monitoring manufacture and distribution of precursors which are applicable over the entire national territory?

Yes.

Please explain:

Various provisions under the *CDSA* and the *PCR* deal with the control, manufacture, and distribution of precursors.

(a) The CDSA

Under s. 2(1) of the *CDSA*, precursor means a substance included in Schedule VI.[21]

Under s. 6(1) of the *CDSA*, except as authorized under the regulations no person shall import into Canada or export from Canada a substance included in Schedule VI. Equally, under s. 6(2), except as authorized under the regulations, no person shall possess a substance included in Schedule VI for the purpose of exporting it from Canada.

Under 7.1(1)(a) of the *CDSA*, no person shall possess, produce, sell, import or transport anything intending that it will be used to produce a controlled substance, unless the production of the controlled substance is lawfully authorized.

(b) The PCR

The *PCR* deals further with the regulation of precursors and the rules applicable to licensed dealers. While a review of all relevant rules regarding the monitoring, manufacturing and

[21] See Appendix C for Schedule VI.

distribution of precursors contained in the *PCR* is beyond the scope of this document, examples of such rules include the following:

- Under s. 6(1) no person other than a licensed dealer may (a) produce a Class A precursor; (b) package a Class A precursor; or (c) sell or provide a Class A precursor.
- Under s. 6(2) no person may possess a Class A precursor for the purpose of an activity mentioned in s. 6(1), except to the extent necessary to conduct the activity in relation to the precursor, as authorized by the person's licence.
- Under s. 6(3), a licensed dealer may import or export a Class A precursor or possess a Class A precursor for the purpose of export if the dealer complies with the conditions set out in section 7.
- Under s. 6.1, no person may possess a Class A precursor for the purpose of producing a controlled substance unless the person is the holder of (a) a licence issued under section G.02.007 or J.01.015 of the *Food and Drug Regulations*, section 17.1 of the *Benzodiazepines and Other Targeted Substances Regulations* or section 10.1 of the *Narcotic Control Regulations* that authorizes the production of the substance; or (b) an exemption issued under section 56 of the Act.
- Section 7 provides for conditions applicable to licensed dealers.
- Sections 9-10 set out limitations on transportation.
- Sections 12-24 address various aspects of licenses such as: eligibility for a license (s. 12); the designation of a senior person in charge and responsible person in charge (s. 13); application for a license (s. 14-15) and pre-license inspections (s. 15.1); issuance of licenses (s. 16); grounds for refusal (s. 17); expiration of licenses (s. 18); amendment of licences (s. 19); amendment of application information (s. 20); and revocation or suspension of licences (ss. 22-24).
- Sections 25-38 deal with import and export permits. Specifically, they cover applications for an import permit (s. 25); issuance of import permit (s. 26); grounds for refusal (s. 27); surrender of import permit (s. 28); declaration (s. 28.1); revocation and suspension of permit (ss. 29-31); application for export permit (s. 32); issuance of export permit (s. 33); grounds for refusal (s. 34); surrender of export permit (s. 35); declaration (s. 35.1); and revocation and suspension of permit (ss. 36-38).
- Section 58 deals with the eligibility for registration for Class B precursors.
- Section 60 deals with an application for or renewal of a registration.
- Section 63 deals with the Minister's grounds for refusal to register an application or renew an applicant's registration.
- Section 66-68 address the revocation or suspension of a registration and corresponding certificate.

6. Does your country have legislation or court rules that establish as a criminal offence the manufacture, transport and distribution of essential equipment intended to be used for illicit drug manufacturing.

Yes.

Please explain:

The *CDSA* has rules related to "designated devices". Under s. 2(1) designated device means a device included in Schedule IX. Schedule IX includes:

1. Manual, semi-automatic or fully automatic device that may be used to compact or mould powdered, granular or semi-solid material to produce coherent solid tablets; and
2. Manual, semi-automatic or fully automatic device that may be used to fill capsules with any powdered, granular, semi-solid or liquid material.

There are various sections of the *CDSA* that deal with designated devices. For example, inspectors have powers with respect to designated devices (s. 31), ministers may require information from people who import designated devices to verify compliance or prevent non-compliance or address an issue of public health or safety (s. 45.1). Further, no person shall import into Canada a designated device unless they register the importation with the Minister (s. 46.3).

Section 46 of the *CDSA* provides:

> Every person who contravenes a provision of this Act for which punishment is not otherwise provided, a provision of a regulation or an order made under section 45.1 or 45.2
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> (a) is guilty of an indictable offence and liable to a fine of not more than $5,000,000 or to imprisonment for a term not exceeding three years, or to both; or
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> (b) is guilty of an offence punishable on summary conviction and liable, for a first offence, to a fine of not more than $250,000 or imprisonment for a term of not more than six months, or to both, and, for any subsequent offence, to a fine of not more than $500,000 or imprisonment for a term of not more than 18 months, or to both.

Devices may also be captured by s. 7.1(1)(a) of the *CDSA*, which provides that no person shall possess, produce, sell, import or transport *anything* intending that it will be used to produce a controlled substance, unless the production of the controlled substance is lawfully authorized.

British Columbia has implemented legislation further regulating equipment to prevent the illegal production of opioids – *Pill Press and Related Equipment Control Act*, SBC 2018, c 24.[22] The associated regulation under the *Act* is the *Pill Press and Related Equipment Control Regulation*,

[22] See also BC Gov News, "Pill press regulations tackle manufacturing of illicit drugs", online: <https://news.gov.bc.ca/releases/2018PSSG0094-002411> ["Pill press regulation"].

B.C. Reg. 278/2018. The legislation limits "the ownership, possession and use of manufacturing equipment for pills and capsules to those with a legitimate business or professional purpose."[23]

7. In respect of non-scheduled chemicals/ equipment, is the fact that they have been mis-declared before the Customs, sufficient to impute 'knowledge' on the part of the supplier of their being used for illicit drug manufacture?

It is complicated.

Please explain:

First, there is little to no caselaw dealing with a breach of s. 46.3 of the *CDSA*. This section provides that no person shall import into Canada a designated device unless they register the importation with the Minister.

Second, Canadian caselaw has developed principles with respect to the imputation of knowledge for importation cases under the *CDSA*. For example, as described by Woollcombe J. in *R. v. Ackharath*, 2022 ONSC 4638, at paras. 13-16:

> [13] The only issue to be decided is whether the Crown has proven beyond a reasonable doubt the *mens rea*, or mental element of the offence, for each accused. The *mens rea* for importing can be proven by establishing either actual knowledge or wilful blindness: *R. v. Briscoe*, 2010 SCC 13, at para. 21.
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> [14] When an accused possesses a controlled substance with a significant value, as is the case here, a trier of fact may infer both knowledge of the nature of the substance and knowledge of the substance itself. These inferences "may be available from the objective improbability that such a valuable quantity of drugs would be entrusted to anyone who did not know the nature of the contents or the means of transport": *R. v. Burnett*, 2018 ONCA 790,at para. 64; *R. v. Bains*, 2015 ONCA 677, at para. 157.
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> [15] Wilful blindness is recognized in Canadian criminal law as a substitute for actual knowledge. It imputes knowledge to an accused where the accused's "suspicion is aroused to the point where he or she sees the need for further inquiries, but makes a *deliberate* choice not to make those inquiries:"
> *R. v. Burnett*, at para. 142. In other words, as was recently explained by Trotter J.A. in *R. v. Olvedi*, 2021 ONCA 518, at para. 21, wilful blindness:
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> > …involves the presence of a subjective suspicion about a fact, circumstance, or situation, and a decision not to make inquiries, preferring to remain ignorant of the true state of affairs: see *Briscoe*, at para. 21; *R. v. Pilgrim*, 2017 ONCA 309, 347 C.C.C. (3d) 141, at para. 66.
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> [16] A helpful discussion about wilful blindness in the context of an accused making some inquiries is found in *R. v. Lagace*, 2003 CanLII 30886 (ON CA), [2003] O.J. No. 4328 (C.A.), at paras. 28-29, where the Court held:

[23] "Pill press regulation".

> 28 … Culpability on the basis of wilful blindness rests on a finding of deliberate ignorance. An accused who suspects that property is stolen but declines to make the inquiries that will confirm that suspicion, preferring instead to remain ignorant is culpable. Where an accused makes some inquiry, the question remains whether that accused harboured real suspicions after that inquiry and refrained from making further inquiries because she preferred to remain ignorant of the truth. Where some inquiry is made, the nature of that inquiry will be an important consideration in determining whether the accused remained suspicious and chose to refrain from further inquiry because she preferred to remain deliberately ignorant of the truth. For example, a finding that an accused took all reasonable steps to determine the truth would be inconsistent with the conclusion that the accused was wilfully blind: *R. v. Mara*, 1997 CanLII 363 (SCC), [1997] 2 S.C.R. 630 (S.C.C.) at para. 51.
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> 29 I, of course, do not suggest that there is any onus on the accused to demonstrate that all reasonable steps were taken. In any case where the Crown relies on the doctrine of wilful blindness and some inquiry has been made, the trier of fact will have to decide whether the Crown has proved beyond a reasonable doubt that despite that inquiry the accused remained suspicious and refrained from making any further inquiry because she preferred to remain ignorant of the truth...

These principles have been applied for charges under s. 6(1) of the *CDSA*: *R. v. Zamora*, 2023 ONSC 2169; *R. v. Ackharath*, 2022 ONSC 4638. Section 6(1) provides that except as authorized under the regulations, no person shall import into Canada or export from Canada a substance included in Schedule I, II, III, IV, V or VI.

While non-scheduled chemicals generally refer to uncontrolled starting materials used in illicit drug manufacturing,[24] it is important to be clear on the specific definition being relied on for the purpose of answering this question. If non-scheduled chemicals means chemicals not included in Tables I and II of the 1988 Convention – which has been the definition used by the International Narcotics Control Board – but which are included in the schedules of *CDSA*, then the imputation principles described above would apply.[25] This is because s. 6(1) would be engaged.

Accordingly, in the circumstances of such a case, whether a misdeclaration before Customs would be sufficient to impute knowledge on the part of the supplier would be governed by such principles.

Third, however, the broad phrasing of s. 7.1(1) of the *CDSA* on its face may even capture a chemical that is not included in the schedules of both the 1998 Convention and the *CDSA*. Again, this section provides:

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[24] Questionnaire.

[25] International Narcotics Control Board, "Proliferation of non-scheduled chemicals: Options for global action. INCB guidance document", online: <https://www.incb.org/documents/PRECURSORS/Brochure/INCB_brochure_options_non-scheduled_chemicals_ebook_rev.pdf> at p. 3; For example, analogues and derivatives of 4-AP are, as of November 23, 2022, not covered but the 1998 Convention but are included in Schedule VI of the CDSA (See Appendices B & C). For more on this, see Q8.

> No person shall possess, produce, sell, import or transport *anything* intending that it will be used (a) to produce a controlled substance, unless the production of the controlled substance is lawfully authorized; or (b) to traffic in a controlled substance.
>
> [Emphasis added.]

Courts have commented on the very little caselaw involving this provision: *R. v. Abu Mandal*, 2023 ONSC 4830, at para. 12.

Individuals have been found guilty for the unlawful possession of chemicals and equipment contrary to this section: *Chen v. Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1595, at para. 9.

Section 7.1(1) may also capture certain types of equipment not listed as a "designated device".

If the imputation of knowledge principles would similarly apply in such a case, then these principles would determine if, in the circumstances, a misdeclaration before Customs would be sufficient to impute knowledge on the part of the supplier.

8. In your country, does domestic legislation include measures and/or civil, criminal and/or administrative sanctions to address non-scheduled chemicals and emerging precursors, namely those that are used as starting materials and/or intermediaries in the legitimate manufacture of substances in Table I and Table II of the 1988 Convention? If yes, which type of sanctions?

Likely yes.

Please explain:

Canadian domestic legislation probably includes criminal measures in two respects.

First, the *CDSA* may cover some analogues and derivatives not covered by the 1988 Convention. In its 2023 Report, the International Narcotics Control Board noted:

> 381. Almost 80 per cent of the responding Governments reported that they had placed other non-internationally scheduled chemicals under national control, ranging from 1 up to more than 70 chemicals. The Board is also aware that some countries generically extend the definitions of chemicals under control by including entire families of derivatives of listed chemicals and other substances closely related to them. For example, Canada has applied such an approach to analogues and derivatives of 4-AP, which became subject to criminal prohibitions under the Controlled Drugs and Substances Act of Canada in 2022.[26]

As of November 23, 2022, *N*-Phenyl-4-piperidinamine (4-AP) and its salts were listed in the 1998 Convention Table, while Scheduled VI of the *CDSA* is seemingly more expansive,

[26] International Narcotics Control Board, "Report 2024", <https://www.incb.org/documents/Publications/AnnualReports/AR2023/Annual_Report/E_INCB_2023_1_eng.pdf> at para. 381 (p. 57).

covering "*N*-Phenyl-4-piperidinamine (*N*-phenylpiperidin-4-amine), its salts, *derivatives and analogues and salts of derivatives and analogues*" [Emphasis added] (See Appendices B & C).

Therefore, there are non-scheduled 1998 Convention chemicals that are subject to criminal law, including importation and exportation prohibitions (s. 6(1)), possession for the purpose of exporting (s. 6(2)) and any sanctions available under the *PCR* with respect to Schedule VI.

Second, as mentioned above, the broad phrasing of s. 7.1 of *CDSA* might capture emerging precursors even if they are not explicitly listed in the *CDSA* schedule.

9. Please elaborate on specific pieces of information and level of details that would allow you as a judge to act on information/intelligence/evidence received from counterparts in investigations related to new emerging drug precursor chemicals not under control in your country.

With respect to evidence derived from foreign law enforcement, a judge would weigh probative value against prejudicial effect.[27] However, there is an easing of some procedural obstacles to its admission pursuant to s. 36(1) of the *MLACMA*.[28] This easing is pursuant to the purpose of "facilitating the admission of evidence obtained abroad in order to efficiently and effectively prosecute international and transnational crime."[29]

Please explain:

The *MLACMA*, specifically the part of the *Act* dealing with the "Admissibility in Canada of Evidence Obtained Abroad Pursuant to an Agreement" (ss. 36-39), would likely be of assistance.

Section 36 provides:

> **Foreign records**
>
> **36 (1)** In a proceeding with respect to which Parliament has jurisdiction, a record or a copy of the record and any affidavit, certificate or other statement pertaining to the record made by a person who has custody or knowledge of the record, sent to the Minister by a state or entity in accordance with a Canadian request, is not inadmissible in evidence by reason only that a statement contained in the record, copy, affidavit, certificate or other statement is hearsay or a statement of opinion.
>
> **Probative value**
>
> **(2)** For the purpose of determining the probative value of a record or a copy of a record admitted in evidence under this Act, the trier of fact may examine the record or copy, receive evidence orally or by affidavit, or by a certificate or other statement pertaining to the record in which a person attests that the certificate or statement is made in conformity with the laws that apply to a state or entity, whether or not the certificate or statement is in the form of an affidavit attested to before an official of the state or entity, including evidence as to the circumstances in which the data contained in the

[27] *R. v. Boyce*, 2019 ONCA 828, leave to appeal refused, 2020 CanLII 19544 (SCC), at paras. 13, 20
[28] *Boyce*, at paras. 13, 20.
[29] *Boyce*, at para. 20.

record or copy was written, stored or reproduced, and draw any reasonable inference from the form or content of the record or copy.

The key case on the interpretation on the reception of foreign evidence by a Canadian court pursuant to the *MLACMA* is *R. v. Boyce*, 2019 ONCA 828, leave to appeal refused, 2020 CanLII 19544 (SCC) [*Boyce*].

In *Boyce*, B.W. Miller J.A. provided an analysis of s. 36 of *MLACMA* and stated at paras. 12-13:

> [12] That is, s. 36(1) makes relevant tendered evidence admissible without considering either its necessity or threshold reliability…
>
> [13] Section 36(1) does not, on this reading, determine the question of ultimate admissibility. Evidence derived from foreign law enforcement is still subject to the general exclusionary rule -- weighing probative value as against prejudicial effect -- as articulated in *R. v. Mohan,*1994 CanLII 80 (SCC), [1994] 2 S.C.R. 9, [1994] S.C.J. No. 36. Furthermore, trial judges retain the power to exclude otherwise admissible hearsay evidence where its admission would infringe on the fair trial rights of an accused: *R. v. Harrer*, 1995 CanLII 70 (SCC), [1995] 3 S.C.R. 562, [1995] S.C.J. No. 81, at paras. 21-24.
>
> …
>
> [19] However, the appellant's interpretation does not account for the purpose of the statute, characterized by the trial judge -- relying on *Mutual Legal Assistance in Criminal Matters Act (Re)*, 1999 CanLII 3787 (ON CA), [1999] O.J. No. 3292, 138 C.C.C. (3d) 321 (C.A.) and *R. v. Zingre*, 1981 CanLII 32 (SCC), [1981] 2 S.C.R. 392, [1981] S.C.J. No. 89 -- as combatting international crime by co-operating with other states, and recognizing a comity of a nations based on mutual deference and respect for the legal systems of Canada's treaty partners.
>
> [20] As explained by Goldstein and Dennison in "Mutual Legal Assistance in Canadian Criminal Courts" (2002), 45 Crim L.Q. 126, s. 36(1) eases the admission of foreign evidence that ordinarily [page457] would have encountered procedural obstacles to its admission. This advances the purpose of *MLACMA* by facilitating the admission of evidence obtained abroad in order to efficiently and effectively prosecute international and transnational crime. Allowing foreign evidence to be requested from foreign governments and received in documentary form respects the comity of nations by avoiding the intrusive and *ad hoc* process of Crown counsel directly contacting people in other countries and asking them to testify. It is premised on Canada and its treaty partners having confidence in and respect for each other's legal systems.

10. Are there any specific provisions that allow you as judge to act on non-scheduled chemicals with no known legitimate uses? Would information from an international body, or a collection of information from other countries, that a chemical has no known legitimate use facilitate your work in any way?

Possibly.

Please explain:

As previously mentioned, the broad phrasing of s. 7.1(1) of *CDSA* might allow an authorized authority, which may ultimately be subject to a judicial determination, to act on a non-scheduled chemical that is not included in the schedule of the 1998 Convention or the *CDSA*. Section 7.1(1) states:

> No person shall possess, produce, sell, import or transport anything intending that it will be used (a) to produce a controlled substance, unless the production of the controlled substance is lawfully authorized; or (b) to traffic in a controlled substance.

Subject to the governing rules of evidence, the *MLACMA*, or any other legislation or law that may be applicable, information from an international body or another country with respect to the absence of any legitimate use could assist the court, depending on the circumstances.

11. As a judge, if you receive a request for assistance in a drug/precursor-related crime from a foreign country, whether at the investigation stage or in the context of a court proceeding (a hearing or a trial), how is it relevant to your determination to ensure that basic human rights, principles of natural justice, and/or rules of procedural fairness that exist in your country are respected?

These principles are reflected in Canadian law – namely the *Charter of Rights and Freedoms* – and judges must make determinations in accordance with them. More specifically, there are some procedural safeguards embedded in the *MLACMA*, which in many cases would govern such determinations.

Please explain:

Basic human rights, principles of natural justice and procedural fairness are reflected in Canadian law. For example, the *Charter* sets out various rights, such as:

- The right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
- The right to be secure against unreasonable search or seizure.
- The right not to be arbitrarily detained or imprisoned.
- The right when charged with an offence not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations.
- The right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Many procedural rules are embedded in the *MLACMA*. Examples below include procedural conditions for (1) issuing search warrants: (2) sending items abroad; and (3) evidence gathering orders.

First, for issuing search warrants:

> The Minister may approve a request from a foreign state for an application for a search warrant under s. 12 or, instead, may approve a request for an application for an "evidence gathering order" under s. 18. A judge hearing an application for a search warrant must be satisfied that it would *not* be appropriate to make an "evidence gathering order". A superior court judge may *issue* a *search warrant* authorizing a "named peace officer" to execute it anywhere in the province where the judge is satisfied by sworn statements that there are *reasonable grounds to believe* that: (a) an "offence has been committed" with respect to which the foreign state has jurisdiction; (b) evidence of the commission of the offence or of the location of a person suspected of having committed the offence will be found in a building, receptacle or place in the province; and (c) it would *not* be appropriate to make an "evidence gathering order". The judge who issues the search warrant must fix a time and place for a *hearing* to consider the "execution of the warrant" (the warrant must be left with a person or at the place of execution), as well as the "report" of the officer executing the warrant. The search warrant must "include a term" setting out the "time and place for the above hearing" and must state that a person from whom a record or thing was seized or a person who has an *interest* in the record or thing has a right to make *representations* at the hearing before an order may be made sending the record or thing to a foreign State or entity.
>
> [Citations omitted.][30]

Second, with respect to sending items abroad:

> Where a judge orders, pursuant to s. 15, that a record or thing is to be sent to a foreign State or entity, the federal Minister of Justice may *not* send the record or thing until she is satisfied that the State or entity has *agreed* to comply with the "terms and conditions imposed" in respect of the sending the record or thing abroad.
>
> [Citations omitted.][31]

Third, for evidence gathering orders:

> Where the federal Minister of Justice *approves* a request by a foreign State or entity to obtain evidence in Canada regarding an offence to which the foreign State or entity has jurisdiction, a competent Canadian authority may apply *ex parte* for a "gathering of evidence order" to a superior court judge of the province in which the applicant believes part or all of the evidence may be found. The judge may make an *order* for the "gathering of evidence" where she is satisfied that there are *reasonable grounds* to believe that: (a) an *offence* has been *committed* with respect to which the foreign State or entity has jurisdiction; and (b) *evidence* of the "commission of the offence" or *information* which may reveal the "location of a person" suspected of having committed the offence will be found in Canada.
>
> [Citations omitted.][32]

[30] Justice E.G. Ewaschuk, K.C. & Chung-Min Kim, Criminal Pleadings & Practice in Canada, 3rd Edition (Thomson Reuters Canada Ltd., 2024) [Ewaschuk & Kim] at § 32:140. Search and seizure.
[31] Ewaschuk & Kim at 32:142. Terms and conditions of sending item abroad; see also *Belgium v. Suthanthiran*, 2017 ONCA 343.
[32] Ewaschuk & Kim at § 32:143. Evidence for use abroad (evidence-gathering order)

12. Describe your own personal experience(s) as a judge that are relevant to the topic of our focus this year, whether it be presiding over an extradition hearing (a request to extradite an accused person to another country in order to be prosecuted in that other country), or receiving evidence in a court proceeding in your country from a witness who is testifying from another country and with the help of court officials in that other country, or helping to arrange for a witness in a court proceeding in another country to testify from a place in your own country, or responding to a request for assistance from an international court such as The Hague, or something else. These are just examples of things that you may have experienced; they are not meant to be exhaustive.

Justice Clayton Conlan has presided over several extradition hearings for accused persons wanted in the USA, including accused persons who were facing narcotics charges.

Conlan J. has also been involved in helping an international court, The Hague, receive evidence from witnesses in Canada.

Witnesses in Canadian criminal proceedings often testify from locations outside Canada.

During our discussion periods in Cape Town, Justice Conlan will provide further details about all of these experiences.

APPENDIX A

Excerpts from Bruce A. MacFarlane, Robert J. Frater, Croft Michaelson, Drug Offences in Canada, 4th Edition (Thomson Reuters Canada Ltd., May 2024) at § 2:7

Over the course of 2003 and 2004, new regulations came into force, and Schedules V and VI of the *Controlled Drugs and Substances Act* were amended,
to regulate "precursors", those drugs that form the building blocks of scheduled substances such as methamphetamine. The Regulatory Impact Analysis Statement to the *Precursor Control Regulations*, SOR/2002-359, described the intention of the regulations as "enabl[ing] Canada to fulfill its international obligations with respect to the monitoring and control of precursors and other chemicals frequently used in the clandestine production of illicit drugs" (at p. 2178). The regulatory framework was further described as distinguishing between two types of precursors, at p. 2179: "Class A precursors are essential components of illicit substances such as methamphetamine, MDMA (ecstasy), cocaine, heroin, LSD, and PCP; Class B precursors are mostly solvents and reagents used in clandestine manufacturing processes."

…

On March 25, 2011, a private member's bill, C-475, *An Act to amend the Controlled Drugs and Substances Act (methamphetamine and ecstasy)*, received Royal Assent (S.C. 2011, c. 14). The Act created a new offence in s. 7.1 of the *Controlled Drugs and Substances Act*, the offence of possessing, producing, selling or importing anything knowing that it will be used to produce or traffic methamphetamine or ecstasy. The bill's sponsor, Mr. John Weston, told the House of Commons that the law's intent was to prohibit "procurement of the precursor chemicals for these drugs if the procurement is accompanied by the intention to produce the outlawed substances" (40th Parl., 3rd session, March 9, 2010). However, on November 6, 2012, ecstasy was moved from Schedule III to Schedule I, which had the effect that this offence no longer applies to that substance.

…

On June 18, 2015, Bill C-2 was given Royal Assent, and became S.C. 2015, c. 22, the *Respect for Communities Act*. The legislative summary of the bill on the Parliamentary website (www.parl.gc.ca) described its purpose in the following terms:

> This enactment amends the *Controlled Drugs and Substances Act* to, among other things,
>
> > (a) create a separate exemption regime for activities involving the use of a controlled substance or precursor that is obtained in a manner not authorized under this Act;
> >
> > (b) specify the purposes for which an exemption may be granted for those activities; and
> >
> > (c) set out the information that must be submitted to the Minister of Health before the Minister may consider an application for an exemption in relation to a supervised consumption site.

In practical terms, the *Respect for Communities Act* created a new legal regime for the granting of Ministerial exemptions under the *CDSA* in respect of illicit drugs. It is a response in part to the Supreme Court of Canada's decision in PHS Community Services Society v. Canada (Attorney General) (2011), 272 C.C.C. (3d) 428 (S.C.C.). In *PHS*, the court set aside a decision of the Minister of Health to refuse to exempt Insite, a health facility in Vancouver's downtown east side, from the possession provisions of the *CDSA* in order to allow the supervised injection of illegal drugs inside the facility.

…

Two measures were taken in early 2016 to respond to United Nations initiatives. On February 5, 2016, the *Precursor Control Regulations* were amended by P.C. 2016-48 to add a substance known as APAAN, which is used in the manufacturing of amphetamines. Later, on April 15, 2016, the *Food and Drug Regulations* were amended by P.C. 2016-225 to add 2C-phenethylamines to part J. This family of designer drugs is a hallucinogen often used at raves, going by street names such as "Europa". The United Nations scheduled the drug in March, 2015 under the *Convention on Psychotropic Substances of 1971*; as a signatory to that convention, Canada was required to take action.

…

The federal government's legislative response to the fentanyl crisis (see the Emerging Issues Bulletin on the crisis) began with the publication of a notice in the *Canada Gazette, Part II*, on September 3, 2016. The notice indicated the government's intention to amend schedule VI of the *CDSA* and the *Precursor Control Regulations* to add six chemicals that are precursors in the production of fentanyl. Fentanyl precursors are also the subject of a bill to amend the *CDSA* introduced in the Senate by Senator White, a former police chief: Bill S-225, 42nd Parl., 1st session. The *Gazette* notice included reference to the fact that between 2009 and 2014, there were 655 fentanyl-related deaths in Canada. The changes to the regulations came into effect on November 18, 2016 with the publication of SOR/2016-294 (amending the *Precursor Control Regulations*) and SOR/2016-983 (amending Schedule VI to the *CDSA*). Bill S-225 would appear to have been overtaken by these developments.

…

On December 15, 2018, Health Canada served notice that it intended to amend Schedules I and VI of the *CDSA* to add precursors used in the manufacturing of fentanyl and methamphetamine. Complementary changes would also be made to the *Precursor Control Regulations*, and the *Narcotic Control Regulations*. Health Canada brought these changes into effect on May 3, 2019. The full explanation for changing the schedules to the *CDSA*, the *Narcotic Control Regulations* and the *Precursor Control Regulations* is found at SOR/2019-120 (the changes to the *NCR* and *PCR*), and the Order for changes to the schedules of the *CDSA* are found at SOR/2019-121. The Regulatory Impact Analysis notes that police have discovered clandestine labs in Canada both for the production of fentanyl and for the production of methamphetamine, and Canadian Border Services Agency agents had discovered shipments of the various precursors being scheduled.

…

On May 6, 2019, the federal government enacted regulations to attempt to further control the production of fentanyl and amphetamines: the *Regulations Amending the Narcotic Control Regulations and the Precursor Control Regulations (Fentanyls and Amphetamines)*, SOR/2019-120. The changes took effect immediately.

…

The struggle to stay ahead of the thriving illegal opioid trade led to new regulations on May 19, 2023. The *Regulations Amending the Precursor Control Regulations (Novel Fentanyl Precursors)* SOR 2023/102 were aimed at derivatives and analogues of the opioid fentanyl that are used in the production process. The accompanying Regulatory Impact Statement contained a horrifying statistic: between January 16 and September 2022, there were 34, 455 apparent opioid toxicity deaths in Canada. An accompanying Order amended Schedule VI of the *CDSA*: SOR 2023/103.

…

On November 24, 2023, small changes were made to the *Precursor Control Regulations* and Schedule VI of the *Controlled Drugs and Substances Act* to correct the French name of the precursor chemical "hypophosphorous acid"/ "acide hypophosphoreux": see SOR/2023-247 and 248.

APPENDIX B

Table of the United Nations Convention against Illicit Traffic in Narcotics and Psychotropic Substance of 1998, as at 23 November 2022

Table I	Table II
Acetic anhydride N-Acetylanthranilic acid 4-Anilino-N-phenethylpiperidine (ANPP) tert-Butyl 4-(phenylamino)piperidine-1- carboxylate (l-boc-4-AP) Ephedrine Ergometrine Ergotamine Isosafrole Lysergic acid 3,4-MDP-2-P methyl glycidate ("PMK glycidate") 3,4-MDP-2-P methyl glycidic acid ("PMK glycidic acid") 3,4-Methylenedioxphyenyl-2-propanone (3,4-MDP-2-P) Methyl alpha-phenylacetoacetate (MAPA) Norephedrine Norfentanyl N-Phenethyl-4-piperidone (NPP) Phenylacetic acid alpha-Phenylacetoacetamide (APAA) alpha-Phenylacetoacetonitrile (APAAN) N-Phenyl-4-piperidinamine (4-AP) l-Phenyl-2-propanone (P-2-P) Piperonal Potassium permanganate Pseudoephedrine Safrole	Acetone Anthranilic acid Ethyl ether Hydrochloric acid[a] Methyl ethyl ketone Piperidine Sulphuric acid[a] Toluene
The salts of the substances listed in this Table whenever the existence of such salts is possible.	The salts of the substances listed in this Table whenever the existence of such salts is possible.

[a] The salts of hydrochloric acid and sulphuric acid are specifically excluded from Table II.

APPENDIX C

Schedule VI of the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 (as of May 28, 2024)

PART 1
Class A Precursors[1]

1 Acetic anhydride

2 N-Acetylanthranilic acid (2-acetamidobenzoic acid) and its salts

3 Anthranilic acid (2-aminobenzoic acid) and its salts

4 Ephedrine (erythro-2-(methylamino)-1-phenylpropan-1-ol), its salts and any plant containing ephedrine or any of its salts

5 Ergometrine (9,10-didehydro-N-(2-hydroxy-1-methylethyl)-6-methylergoline-8-carboxamide) and its salts

6 Ergotamine (12′-hydroxy-2′-methyl-5′-(phenylmethyl)ergotaman-3′,6′,18-trione) and its salts

7 Isosafrole (5-(1-propenyl)-1,3-benzodioxole)

8 Lysergic acid (9,10-didehydro-6-methylergoline-8-carboxylic acid) and its salts

9 3,4-Methylenedioxyphenyl-2-propanone (1-(1,3-benzodioxole)-2-propanone), its derivatives and analogues and salts of derivatives and analogues, including:

(1) methyl 3-(1,3 benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (MMDMG)

10 Norephedrine (Phenylpropanolamine) and its salts

11 1-Phenyl-2-propanone, its derivatives and analogues and salts of derivatives and analogues, including:

(1) methyl 2-methyl-3-phenyloxirane-2-carboxylate (BMK methyl glycidate)

(2) 3-oxo-2-phenylbutanamide (α- phenylacetoacetamide-APAA)

12 Phenylacetic acid and its salts

13 Piperidine and its salts

14 Piperonal (1,3-benzodioxole-5-carboxaldehyde)

15 Potassium permanganate

16 Pseudoephedrine (threo-2-(methylamino)-1-phenylpropan-1-ol), its salts and any plant containing pseudoephedrine or any of its salts

17 Safrole (5-(2-propenyl)-1,3-benzodioxole) and any essential oil containing more than 4% safrole

18 Gamma-butyrolactone (dihydro-2(3H)-furanone)

19 1,4-butanediol

20 Red Phosphorus

21 White Phosphorus

22 Hypophosphorous acid, its salts and derivatives

23 Hydriodic acid

24 Alpha-phenylacetoacetonitrile and its salts, isomers and salts of isomers

25 Propionyl chloride

26 1-Phenethyl-4-piperidone and its salts

27 4-Piperidone and its salts

28 Norfentanyl (N-phenyl-N-piperidin-4-ylpropanamide), its salts, derivatives and analogues and salts of derivatives and analogues

29 1-Phenethylpiperidin-4-ylidenephenylamine and its salts

30 *N*-Phenyl-4-piperidinamine (*N*-phenylpiperidin-4-amine), its salts, derivatives and analogues and salts of derivatives and analogues, including:

(1) 4-anilino-1-boc-piperidine (*tert*-butyl 4-(phenylamino)piperidine-1-carboxylate)

(2) 4-fluoro anilino-1-boc-piperidine (*tert*-butyl 4-((4-fluorophenyl)amino)piperidine-1-carboxylate)

(3) *N*-(4-fluorophenyl)-4-piperidinamine (*N*-(4-fluorophenyl)piperidin-4-amine)

(4) 4-bromo anilino-1-boc-piperidine (*tert*-butyl 4-((4-bromophenyl)amino)piperidine-1-carboxylate)

31 N^1,N^1,N^2-trimethylcyclohexane-1,2-diamine and its salts

32 Benzylfentanyl (N-(1-benzylpiperidin-4-yl)-N-phenylpropionamide), its salts, derivatives and analogues and salts of derivatives and analogues

[1]Each Class A precursor includes synthetic and natural forms.

PART 2
Class B Precursors[1]

1 Acetone

2 Ethyl ether

3 Hydrochloric acid

4 Methyl ethyl ketone

5 Sulphuric acid

6 Toluene

[1]Each Class B precursor includes synthetic forms.

PART 3
Preparations and Mixtures

1 Any preparation or mixture that contains a precursor set out in Part 1, except items 20 to 23, or in Part 2.