

HEMP (MALE).

# Hemp (*Cannabis sativa* L. for non psychoactivity-related purposes)

An approach from the perspective of international law.



HEMP (FEMALE).

# Contents

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# Why Hemp?

## 6.7 Conclusions

A 1938 article in Popular Mechanics Magazine famously claimed that hemp “can be used to produce more than 25,000 products” (Windsor 1938). Here we have focused upon cannabinoids, terpenoids, hemp seed oil and protein, and bast fiber. Hemp breeders are busy optimizing plants for these many products.

**Acknowledgements** This work was supported in part by the European project Multihemp, FP7-Project number 311849.

# A traditional crop for contemporary challenges

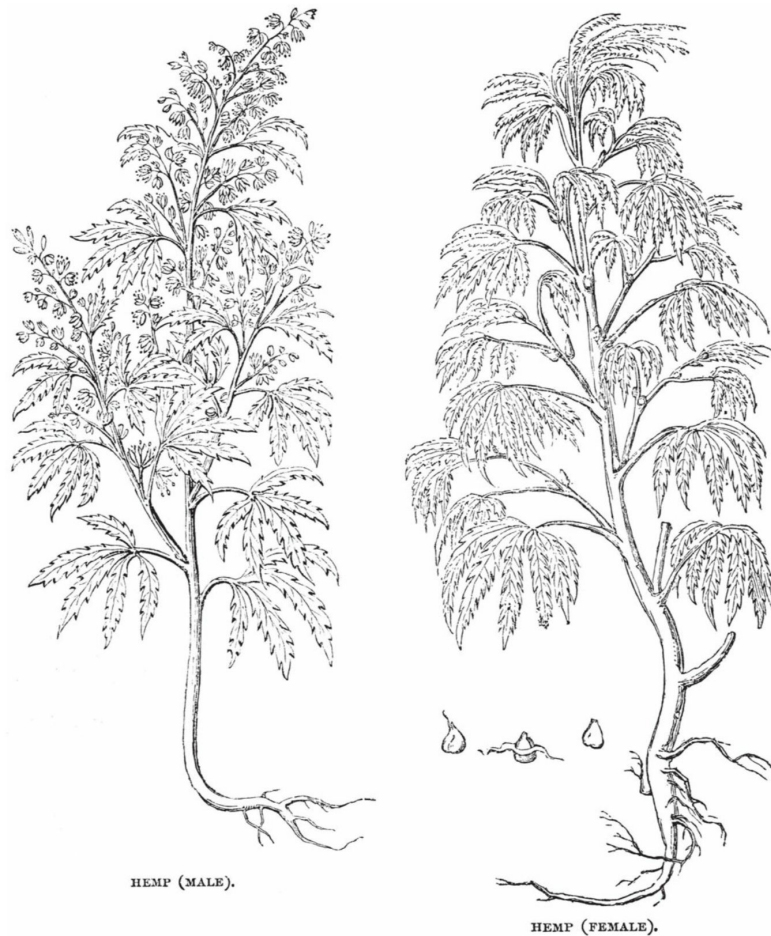
- **Food** and supplements to maintain & support healthy diet, locally produced.
  - Zero-carbon **raw materials** for future environmentally-responsible societies.
  - Whole plant usable = viable **cash-crop** for European farmers and processors
  - Ideal **cultivation conditions** (one of the regions of origin of hemp plant)
  - Green 'cash-crop' to support **job creation** in agricultural sector & across a diversified **entire supply chain**.
  - Century-old **expertise & knowledge** of European hemp farmers & industries.
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# SUSTAINABLE DEVELOPMENT GOALS

# What is Hemp?





# What is hemp?

“Hemp” is the **vernacular English** name used to designate:

- the products of the *Cannabis* plant that are used for **purposes not related to psychoactivity**.
- the very *Cannabis* plants used to obtain these products not related to a sought psychoactivity





# What is hemp?

~~sativa = hemp~~

~~indica = drug~~

## Fake news!



Marijuana

Hemp

Indian hemp

Industrial hemp

“Cannabis industry”

Industrial cannabis

Cannabis

Cannabis



# What is hemp?

No chemical, systematic, phylogenetic or botanical difference between *Cannabis* plants suitable for “**hemp**” (**NPP**) and *Cannabis* plants with psychoactivity-related purposes (**WPP**).

Differences depend only partly of genetic factors, but essentially of **soil, climate, and methods of cultivation.**

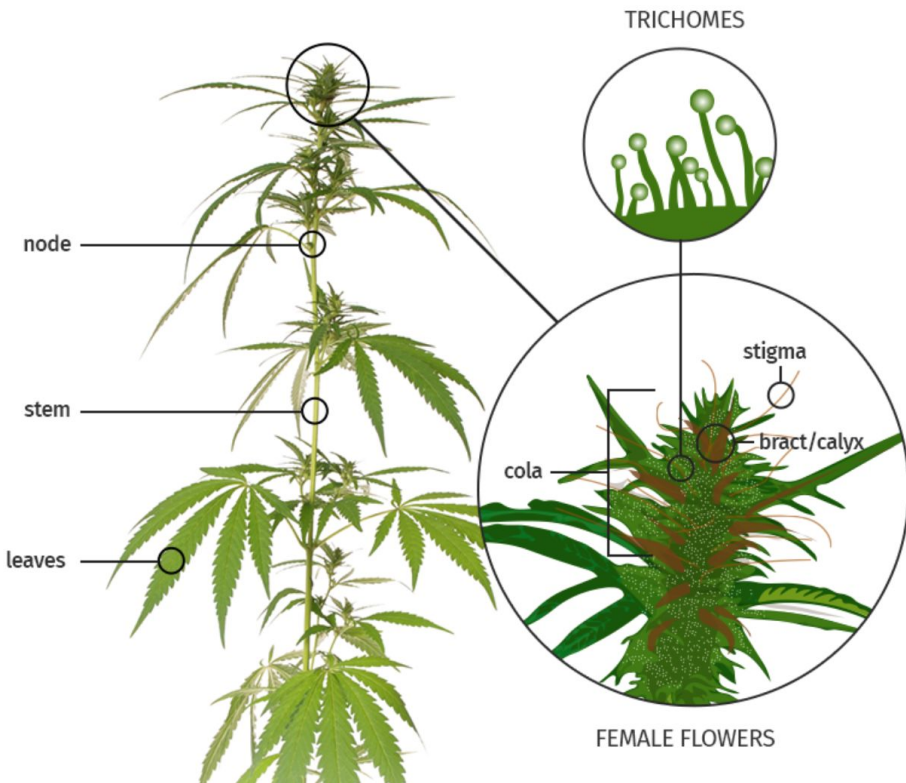
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# What is hemp?

## Active drug compounds

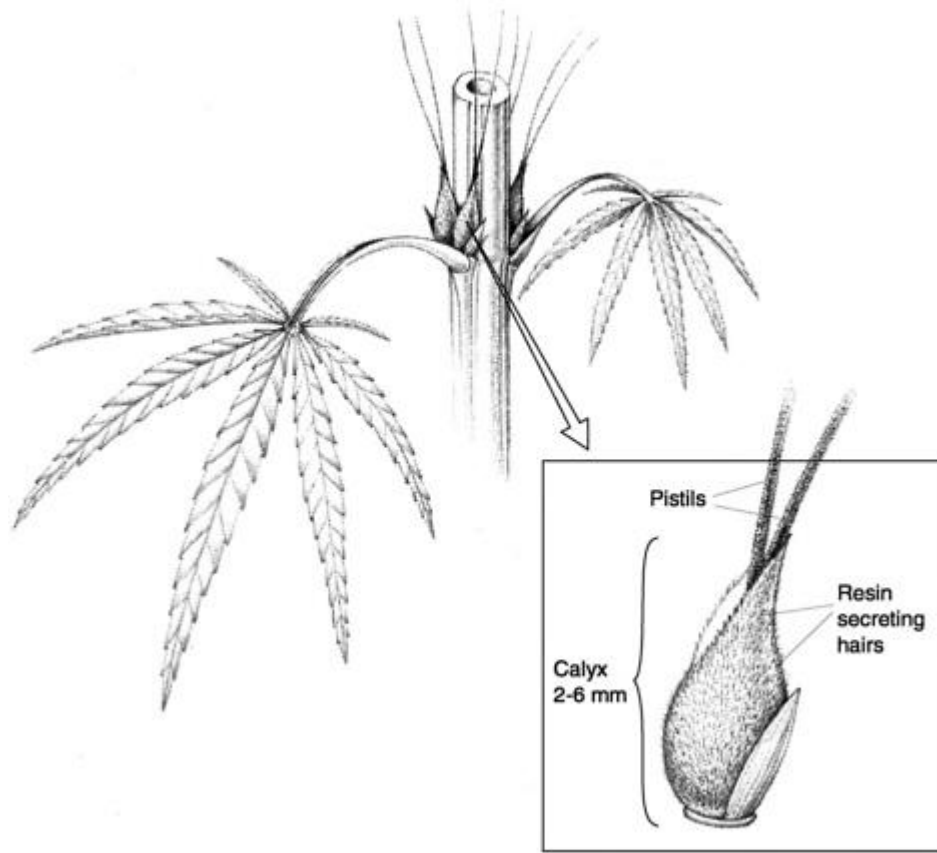
(phytocannabinoids like  $\Delta^9$ -THC or CBD) are essentially found in the **external part of the plant's fruits.**

The heads of epidermal hairs (**trichomes**) contain the phytocannabinoid-rich resin.



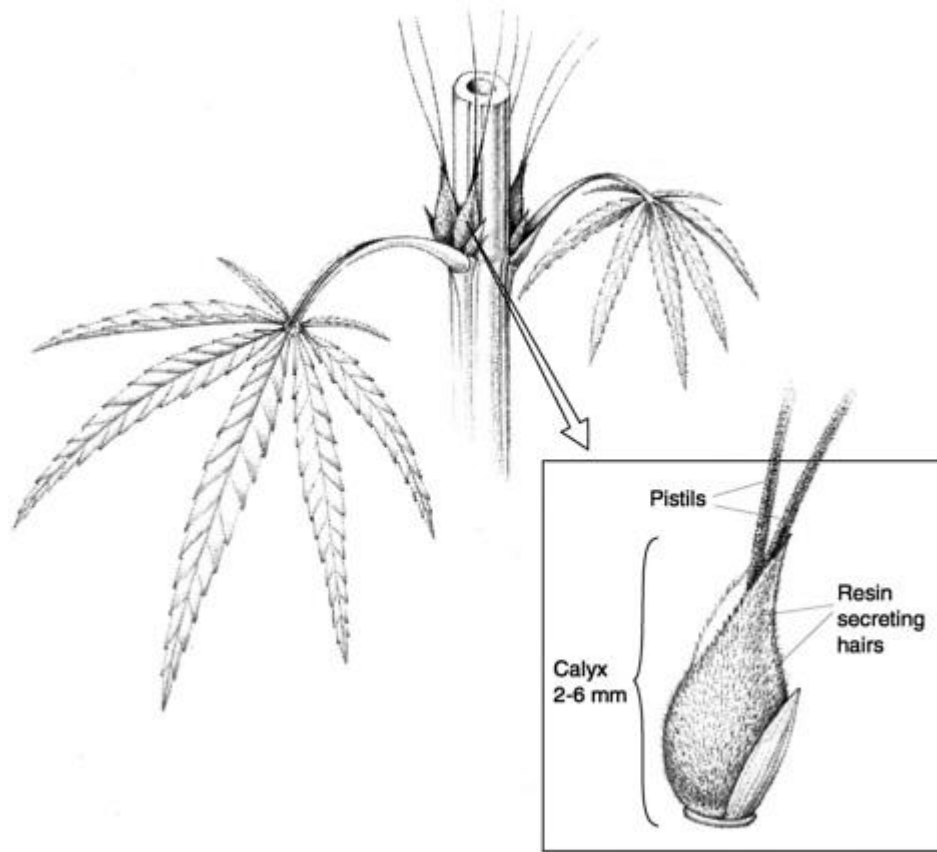
# What is hemp?

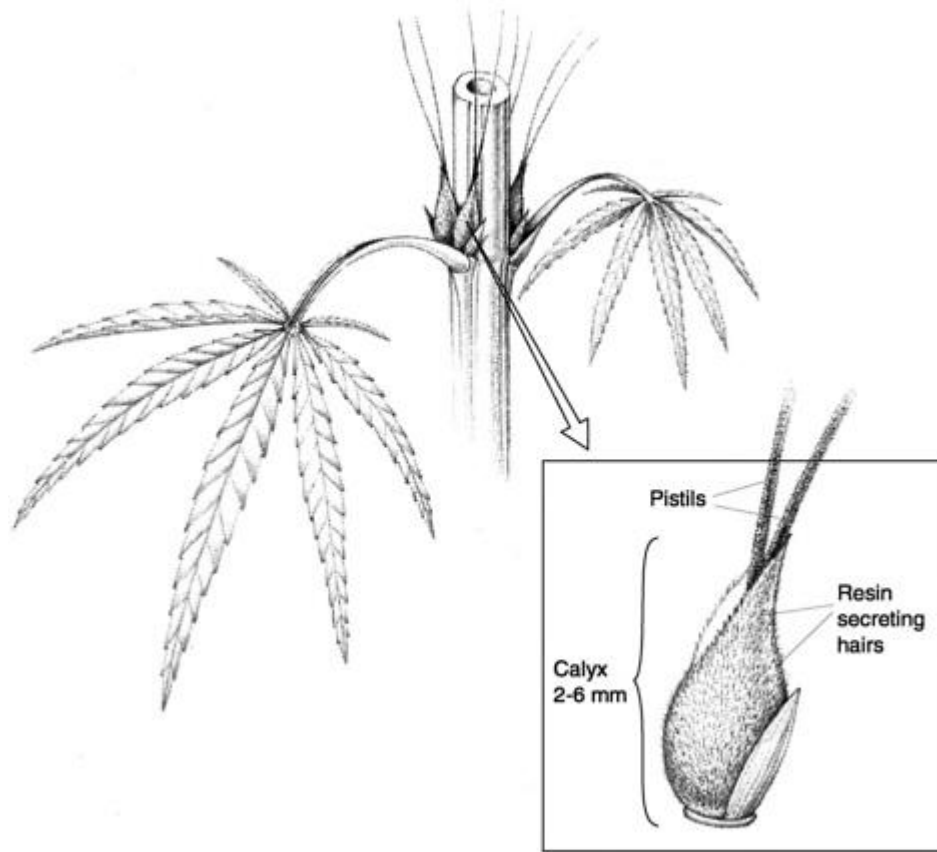
**Techniques of cultivation** are used to express “hemp-type” characters of the *Cannabis* plant (which uses its energy to increase yields & quality of seeds, fibres) used in NPP crops – or express “resin-type” characters (increased cannabinoid content) for either WPP or NPP types of cultivation.



# What is hemp?

The main way to obtain “drugs” from *Cannabis* is to block the fertilization of flowers, thus creating **parthenocarpic fruits (seedless fruits)** which redirect the plant energy to the production of glandular trichomes rather than to the production of seeds.



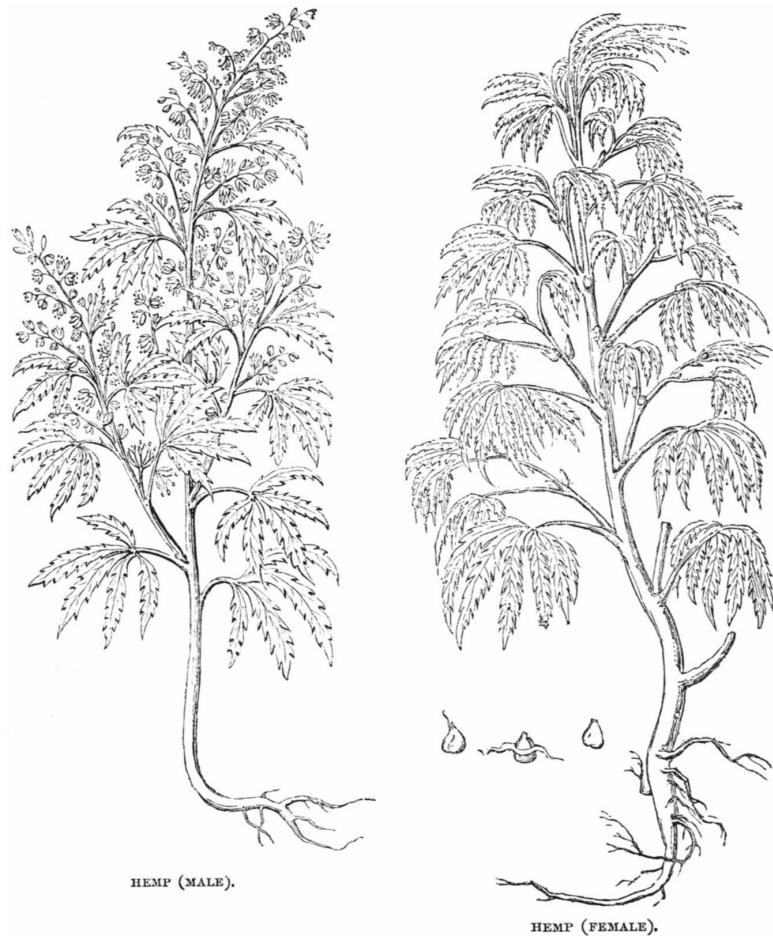


# What is hemp?

**Fibre-type** plants are only used in NPP *Cannabis* crops.

However, **resin-type** *Cannabis* plants with increased yields of cannabinoids can be **used both for WPP cultivation** (if the purpose is that of obtaining psychoactive material) **or for NPP cultivation** (e.g. to obtain seeds or CBD)





# What is hemp?

“Hemp” = non-scientific sub-category of *Cannabis*

“Hemp” = products of the *Cannabis sativa* plant **Not** related to **Psychoactive Purposes (NPP)**.

## WPP crops

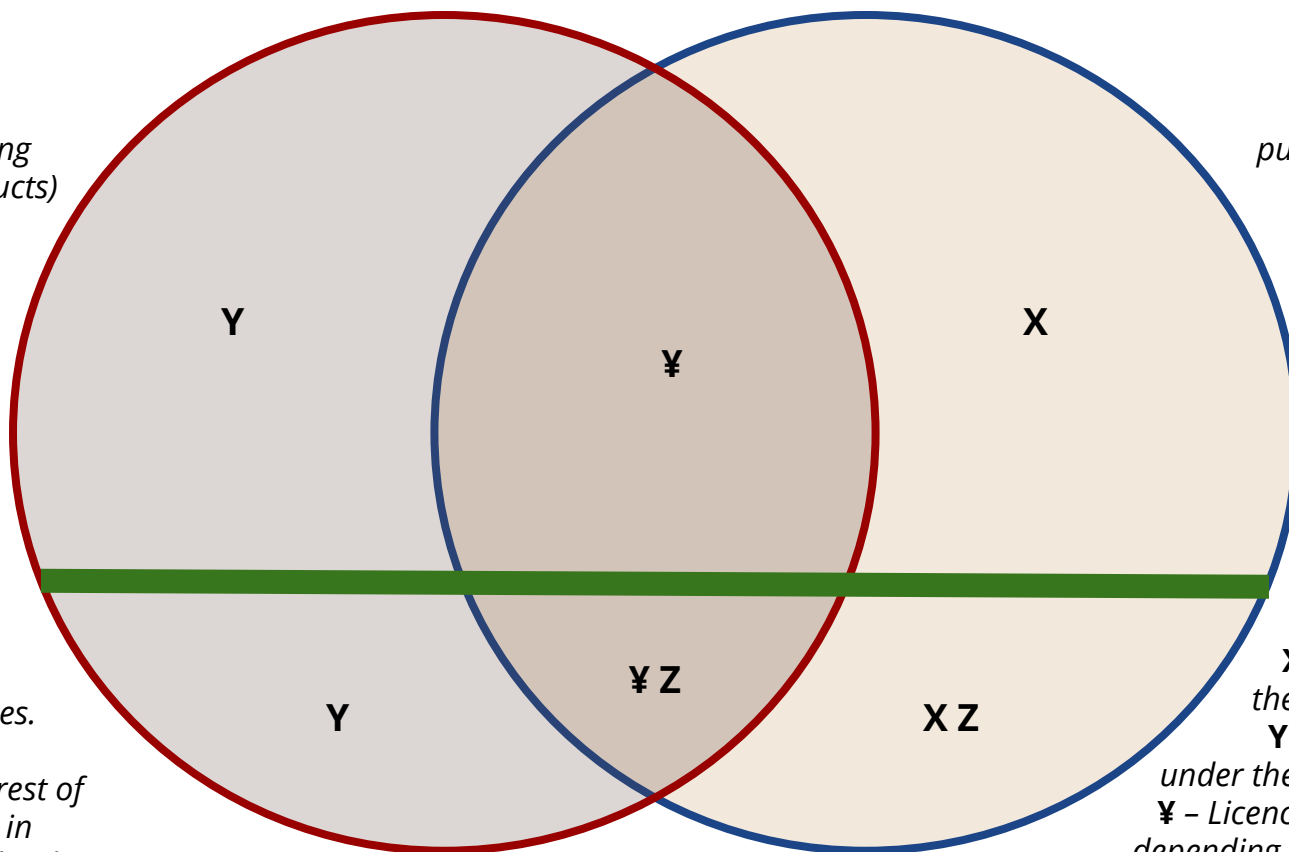
*(cultivated for the purpose of obtaining psychoactive products)*

## NPP crops

*(cultivated for the purpose of obtaining "hemp" products)*

## $\Delta^9$ -THC thresholds

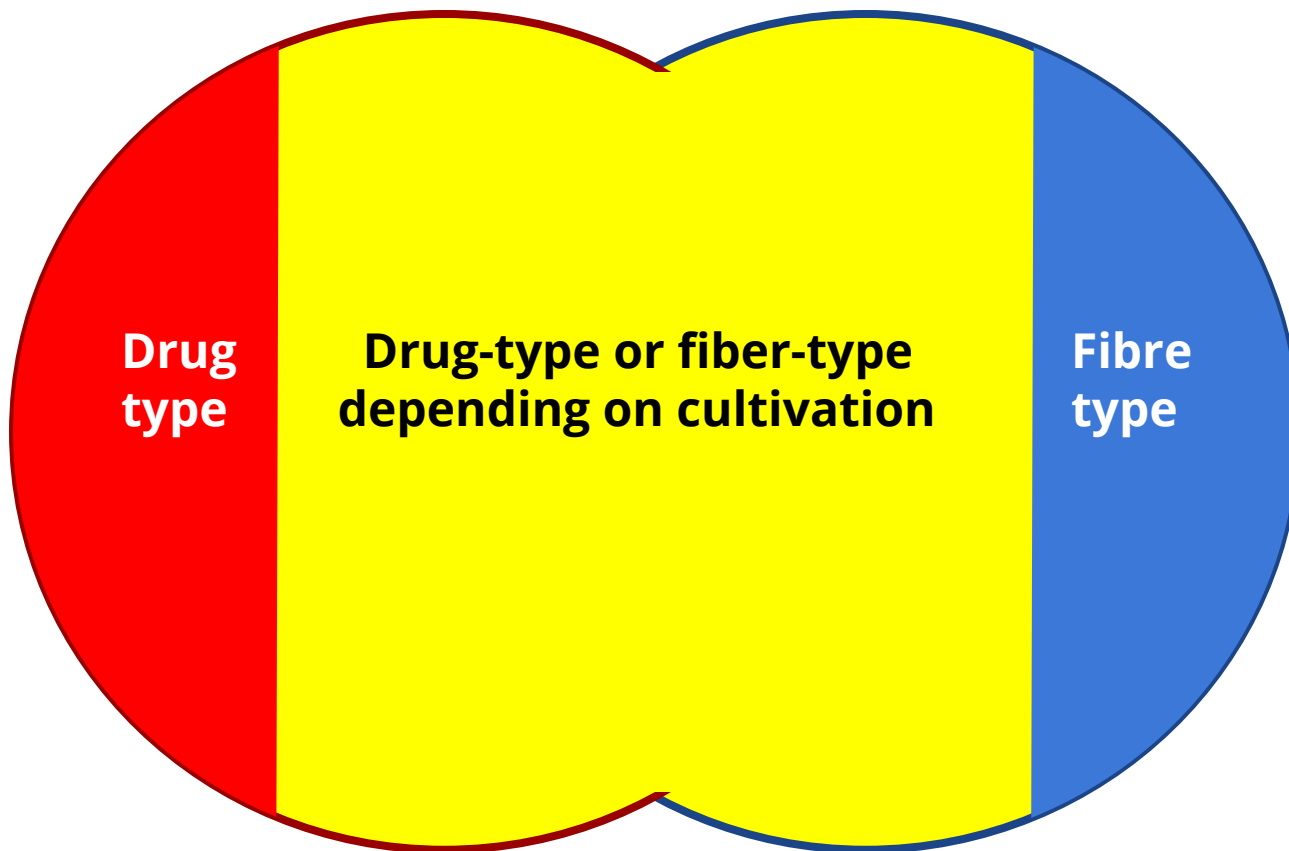
*(varying by countries. Currently 0.2% in Lithuania and the rest of EU countries, 0.3% in USA, 1% in Switzerland)*



**X** – Exempted from the 1961 Convention.  
**Y** – Licence required under the 1961 Convention.  
**¥** – Licence required (or not) depending on interpretations.  
**Z** – Cultivation allowed in the European Union.

**WPP crops**

**NPP crops**



# What is hemp?

This is why it is useful to consider the **purpose and techniques of production**, as well as the **resulting product** and its composition – **in addition to considering “resin” or “fibre” types.**

Hence, the use of: **NPP**  
(**N**on-**P**sychoactivity-related **P**urposes)  
vs **WPP** (**W**ith **P**sychoactivity-related  
Purposes)

*Hemp field in the Czech republic, 2018. Source:  
[hempoint.cz/en/scenes-from-the-hempoint-harvest-2018/](http://hempoint.cz/en/scenes-from-the-hempoint-harvest-2018/)*

# E.U. policy

Currently in force in Lithuania.



# EU policy on crops.

Since the 1990's, for matters of convenience within the single market, the European Union has harmonized policies on the cultivation of NPP *Cannabis*.

EU's is a **historical landmark policy switch** which provided legal security, thus helping the **continental-wide re-birth of the “hemp sector”**

The EU proposed a way-forward policy based on two criteria to distinguish and exempt “hemp” crops from drug control laws:

The combined **Genetic+Analytic** approach.

# EU crops policy: Combined Genetic+Analytic approach.

Payments under the Common Agricultural Policy is conditional upon the use of certified seeds from cultivars of *Cannabis* registered in **EU Plant variety database** (currently +70).

Crops must be **analyzed** and contain no more than **0.2 %  $\Delta^9$ -THC** to be further processed into hemp products

(EU Regulation 1307/2013).

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# EU crops policy: Combined Genetic+Analytic approach.

**Currently under review.**

Monitoring of competitor markets  
(Switzerland, China, USA).

Monitoring of EU MS policies.

Limit of THC in plants might evolve.

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# EU policy on hemp products for food.

“**novel food**’ means any food that was not used for human consumption to a significant degree within the Union before 15 May 1997.” *Article 3, Novel Food Regulation 2015/2283*

Despite numerous historic evidence of the use of hemp food throughout Europe – including with cannabinoid content (particularly CBD) – a **new wording of the Novel Food Catalogue** was introduced in January 2019:

*Cannabis sativa* L. seeds and their derivatives are not Novel Food

*Cannabis sativa* L. leaves and inflorescences are left in a grey zone

But new item “Cannabinoids” is introduced and catalogued as Novel Food

# MALTOS-CANNABIS

Sweden



TEKNISKA

FABRIKEN



26 (xxvj) *Se vuoi tortelli con fiori  
di canapaccia.*

Italy

Togli questi fiori di canapaccia senza foglie e cuocili colla pancia del porco. Quando ella è presso che cotta (metti) a bollire li fiori e (quando) la carne è cotta, batti ciascuno per se. Togli finissimo cascio, altrettanto quanto è la carne, e fine spezie e fa tortelli.



## And even closer...

Podczas głodu, którego doznali zarówno mieszkańcy polskich wiosek syberyjskich, jak i użytkownicy północno-wschodniej polszczyzny kresowej, jadło się różne trawy. Z tych „jadalnych” traw mieszkańcy Widz wymieniają *osotę*, lituanizm *v'iksvę* 'turzyca', *pokšyvę* 'pokrzywa', *konop'i* 'konopie', *šn'itkę* (por. *сні'тка*, *сны'тка*: *Снітка* – лапшатая трава, свіням, каровам і *самы снітку варылі...* (kursywa tu i dalej – N.A.); *калісь і снітку варылі і елі* [SBH 4, 1984, s. 514]; *шні'тка*: *Шнітку елі ў вайну. Даўней шнітку варылі*: *Шнітка* –

Ananiewa N. 2017. Nazwy potraw w polskich gwarach na Litwie, Białorusi i Syberii wobec przemian cywilizacyjnych. Rozprawy Komisji Językowej ŁTN, t. LXIV, 8.

During the famine suffered by both the inhabitants of Polish Siberian villages, as well as users of the north-eastern Polish borderland, ate different grasses. From these "edible" grasses, the inhabitants of the Widzew exchange *osyt*, and lituanizm *v'iksva* 'sedge', *pokšyva* 'nettle', **hemp** 'hemp', *šn'itka*

# EU novel food policy.

Contradicts the decision of the Standing Committee on Food dated 18th December 1997 which stated that **"foods which contain parts of the hemp plant do not fall under Regulation (EC) No. 258/97 on Novel Food and Novel Food Ingredients."**

Source: EC letter to Mr Dupetit, 3rd March 1998, via EIHA.org



## If Member States enforce the **NF** regulations.

### **End of the single market**

creating a vacuum which will be filled by the **'grey market'**  
(54% of consumers are willing to buy CBD even if illegal)

### **Loss of control over the market**

represents significant potential consumer risk (no compliance with any safety, labeling or other standards)

### **Loss of jobs all along the supply chain:**

in production, processing and sales

### **Loss of competitiveness** for EU

enterprises vs extra-EU countries.  
No equal-level playing field for EU actors

### Loss of the **environmental**

**benefits** of cultivating hemp (e.g. CO<sup>2</sup> absorption) – not in line with CAP orientations

### **Discrepancy on the labelling** &

impossible for consumers to compare products and know origin/composition



# EU policy on hemp products for food.

## TRADITIONAL FOOD

Leaves, flowers & fruits

Extracts with traditional  
extraction methods

Cannabinoids to the levels  
naturally occurring in plants

*Considered as  
ingredients for  
food and food  
supplements.*

*Backed by  
evidence of use  
prior to 1997.*

## NOVEL FOOD

Isolated / refined  
cannabinoids

*Not backed by  
historic evidence.  
Considered novel  
food ingredient.*

*Need a  
case-by-case  
authorization to  
be used in foods  
within the EU  
market.*

# International Law



# 1961 Treaty

Single Convention on Narcotic Drugs of 1961,  
as amended by the 1972 Protocol

# Single Convention

Single Convention on Narcotic Drugs of 1961,  
as amended by the 1972 Protocol



**UNODC**

United Nations Office on Drugs and Crime

## The International Drug Control Conventions

Single Convention on Narcotic Drugs of 1961  
as amended by the 1972 Protocol

Convention on Psychotropic Substances of 1971

United Nations Convention against Illicit Traffic in  
Narcotic Drugs and Psychotropic Substances of 1988

with final acts and resolutions



UNITED NATIONS

## COMMENTARY on the SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

*(Prepared by the Secretary-General  
in accordance with paragraph 1 of Economic  
and Social Council resolution 914 D (XXXIV)  
of 3 August 1962)*



UNITED NATIONS



E/CN.7/588

## COMMENTARY on the PROTOCOL AMENDING the SINGLE CONVENTION on NARCOTIC DRUGS, 1961

*Done at Geneva on 25 March 1972*



UNITED NATIONS



# The Convention ignores THC & CBD

**CBD** was identified in the first half of the XX<sup>th</sup> Century. Their lack of potential for abuse never brought the attention of international policymakers.

The scientific community agreed on the recognition of **THC** as the main active compound in 1965. **The Treaty had already been adopted** four years earlier in 1961, and **entered into force one year earlier** in 1964.

As such, **international law does not contemplates any limit or % of THC.**

CBD and THC are not listed as “drugs,” only *Cannabis* fruits and resin are.

# Cumulative Exemptions By Purpose for NPP *Cannabis* cultivation and Hemp products



# Comprehensive exemptions of NPP *Cannabis* from Treaty controls

## Cultivation

Cultivation of the *Cannabis* plant is **disregarded** by the 1961 Single Convention, when undertaken for **any purpose other than pharmaceutical production or research. Not limited to fibre and seed.**

*Single Convention, Article 28(2)*

*Official Commentary, pp. 312-5*

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# Comprehensive exemptions of NPP *Cannabis* from Treaty controls

## Fibres & seeds

Fibre, seeds and leaves (when not accompanied by flowering/fruiting tops) are excluded from the scope of the Convention. They are not considered as a “drug” and not internationally controlled.

*Single Convention, Article 1(b)*

*Official Commentary, pp. 2-4 & 312-5*

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# Comprehensive exemptions of NPP *Cannabis* from Treaty controls

## Flowers & fruits

Fruiting tops (“buds”) are considered a drug. However, any drug used in industrial settings is exempt from the Convention’s controls. NPP *Cannabis* fruits are therefore not under the Convention’s régime

*Single Convention, Article 2(9)*

*Official Commentary, pp. 71-3*

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# These exemptions are cumulative, not exclusive.

The exemption from the scope of the Treaty, in the case of cultivation in non-medical and non-scientific context (Art. 28(2)) give total freedom to State Parties to regulate the cultivation of NPP *Cannabis* plants (hemp)

The exemptions conveyed by Art. 1(b) and 2(9) allow for the use of all botanical parts harvested from these crops, for any use that is not related to the pharmaceutical sector.

# CBD & the Convention: the verdict of WHO

# Mandate of the WHO

Single Convention on Narcotic Drugs, 1961,  
as amended by the 1972 Protocol amending the  
Single Convention on Narcotic Drugs, 1961

## Article 3

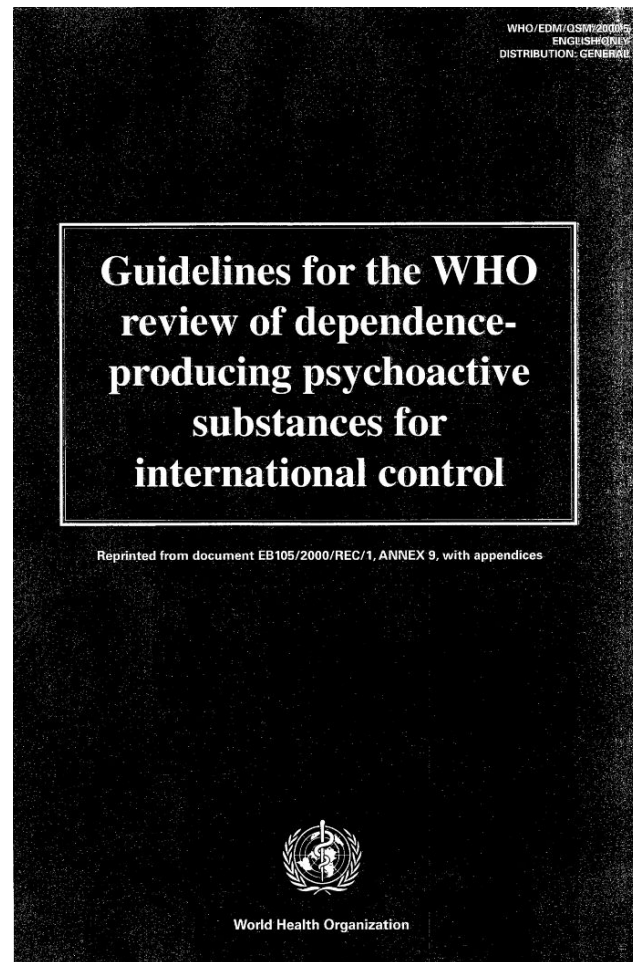
### CHANGES IN THE SCOPE OF CONTROL

Article 3(3)iii of the Single Convention  
mandates World Health Organization  
(WHO) as **the only authority** able to  
**determine the status of a substance**  
**under the international drug control**  
**system**, based on a scientific  
assessment.

# Mandate

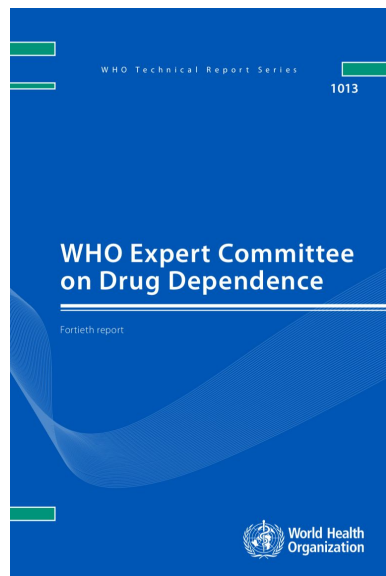
The WHO chooses renowned scientists from around the globe among its panel of experts, which convene to review substances in a two-step process.

For CBD, the first step took place in June, and the second step in November 2018.





# 1. Pure CBD



## **Cannabidiol (CBD)**

The Committee recommended that preparations considered to be pure CBD should not be scheduled within the International Drug Control Conventions.

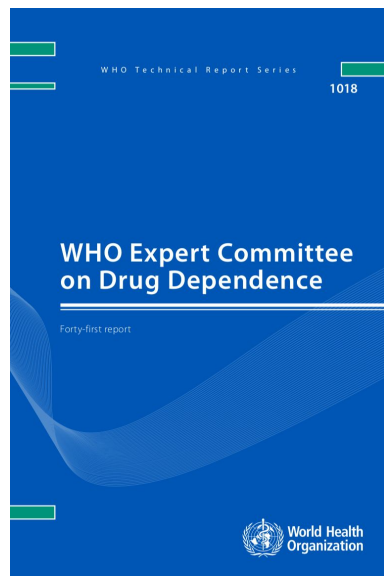
*WHO 40th Expert Committee on Drug Dependence, June 2018*

There is no evidence that CBD as a substance is liable to similar abuse and similar ill-effects as substances in the 1961 or 1971 Conventions such as cannabis or THC, respectively.

The Committee recommended that preparations considered to be pure CBD should not be scheduled.

*WHO 40th Expert Committee on Drug Dependence, June 2018*

## 2. CBD-rich extracts



### **Cannabidiol preparations**

- To give effect to the recommendation of the fortieth meeting of the ECDD that preparations considered to be pure cannabidiol (CBD) should not be scheduled within the International Drug Control Conventions by adding a footnote to the entry for cannabis and cannabis resin in Schedule I of the Single Convention on Narcotic Drugs (1961) to read *“Preparations containing predominantly cannabidiol and not more than 0,2 percent of delta-9-tetrahydrocannabinol are not under international control”*

*WHO 41st Expert Committee on Drug Dependence, November 2018*

# Precisions

*Answers of WHO to the Commission on Narcotic Drugs  
as contained in the document prepared by the  
Secretariat to the Governing Bodies of the UNODC, on  
9th September 2019.*

**"Cannabidiol shows no potential for abuse or dependence and any ill-effects are minimal. It is no similar to any other substance controlled under the 1961 Convention.** CBD does have effects on the brain, but like many other substances with such effects, it is not considered psychoactive as it has no significant effects on mental state. [...] When produced from the plant [...] CBD preparations will contain trace amount of THC as well as other cannabinoids and non-cannabinoid plant substances. [...] most of the preparation should be CBD, and no more than 0.2% THC (by weight). The word predominantly was used to describe the proportion of CBD and this was intended to mean that almost all of the content was CBD. The Committee considered that **the percentage of CBD to be used in practice could be left to individual Member States** in consultation with INCB. The value of 0.2% for THC was specified as WHO had requests from Member States to indicate what maximum percentage was considered appropriate [...] The Committee was aware that CBD products, such as foods, are being sold in many countries. While CBD does not satisfy the criteria for control under the 1961 Convention, **Member States can regulate its availability using their own national legislation.** There are **no implications for the control of cannabis plants or hemp plants arising from this recommendation.**"

# Implications

International law is simplified and made considerably clearer.

Sovereignty of Member States is preserved through flexibility of criteria.

Impact at the national level? Only if a country wants so.

Memo: <http://bit.do/who-cnd>

## Memo

Changes in the scope of international control  
of medical **Cannabis** and **cannabinoids**.

**CND** UNITED NATIONS COMMISSION ON NARCOTIC DRUGS  
POLYGRAPHED REPORT OF THE NINTH AND TENTH SESSIONS - 1996 REPORT OF THE NINTH AND TENTH  
4<sup>th</sup> Intersessional meeting | 62<sup>nd</sup> Commission on Narcotic Drugs | June 24<sup>th</sup>, 2019

Authors: Kenzi Riboulet-Zemouli (kenzi@zemouli.fr) and Michael Krawitz (michael@november.org).

### 7.1.1 Cannabis plant

The flowering or fruiting tops of the cannabis  
leaves when not accompanied by the tops of  
extracted.

### 7.1.2 Cannabis resin

The separated resin, whether

### 7.2 Chemistry

*Cannabis sativa* (L.)  
is an annual flower  
flowers on a single  
female flower  
500 naturally  
including  
and  
referred to as  
cannabis

# Hemp (*Cannabis sativa* L. for non psychoactivity-related purposes)

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# Ačiū

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