

Marijuana Legalization in Canada: Implications for U.S. Policy and International Drug Control

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Related Authors

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Peter J. Meyer

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Liana W. Rosen

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Peter J. Meyer, Specialist in Latin American Affairs (pmeyer@crs.loc.gov, 7-5474)

Liana W. Rosen, Specialist in International Crime and Narcotics (lrosen@crs.loc.gov, 7-6177)

Lisa N. Sacco, Analyst in Illicit Drugs and Crime Policy (lsacco@crs.loc.gov, 7-7359)

On October 17, 2018, Canada became the second country—after [Uruguay](#) in 2013—to legalize and regulate the production, distribution, and possession of marijuana for recreational purposes. The measure comes at a time when other countries are questioning their drug policies and U.S. states are forging policy paths that diverge from federal law.

These developments have spurred questions from Congress regarding their potential implications for U.S. domestic and international drug policy.

Canada's Cannabis Act

Canada's Cannabis Act allows individuals 18 years of age or older to purchase marijuana from authorized sellers, grow up to four plants in their homes, and possess up to 30 grams (a little over an ounce) of dried marijuana. The federal government is responsible for regulating production, while each of Canada's 13 provincial and territorial governments are responsible for regulating sales and consumption. Most of the provinces and territories are in the process of setting up government-run dispensaries and/or issuing retail licenses to private companies. The act creates new criminal offenses for providing marijuana to minors, prohibits marketing to youth, and strengthens penalties for driving while impaired. About 15% of Canadians reported using marijuana in the third quarter of 2018.

Prime Minister Justin Trudeau and his Liberal Party had pledged to legalize marijuana in the 2015 election that brought them to power. They argued that prohibition trapped Canadians in the criminal justice system for minor, nonviolent offenses and failed to reduce consumption among young people. In their view, legalizing and regulating marijuana would allow Canada to address the associated public health challenges while taking a market estimated to be worth C\$5-6.3 billion (about \$3.8-4.8 billion) out of the hands of criminals.

Other Canadians are more skeptical. Some law enforcement officials have expressed concerns that they are unprepared to deal with drug-impaired drivers, and many analysts maintain that black-market dealers will continue to control a portion of the marijuana market. Although most Conservative Members of Parliament voted against the Cannabis Act, Conservative Party leader Andrew Scheer asserts that his party will not seek to recriminalize marijuana if it wins power in the 2019 federal election.

Comparisons to the United States

In the United States, the federal Controlled Substances Act (CSA) prohibits the cultivation, possession, and distribution of marijuana, except for the purposes of sanctioned research. American states, however, have established a range of laws and policies regarding marijuana's medical and recreational use. Most states have deviated from an across-the-board prohibition of marijuana, and it is now more so the rule than the exception that states have laws and policies allowing for some cultivation, sale, distribution, and possession of marijuana—all of which are contrary to the CSA.

As of October 31, 2018, 46 states, as well as Puerto Rico, the District of Columbia, and Guam, allow for the *medical use* of marijuana in some capacity. Also, nine states, the District of Columbia, and the Northern Mariana Islands now allow for some *recreational use* of marijuana. On November 6, 2018, two additional states approved medical marijuana measures and one additional state approved a recreational marijuana ballot measure.

Thus far, the U.S. government largely has not taken steps (such as federal preemption of state law) to prevent states from implementing their own laws on marijuana, in part due to a restriction placed on the use of Department of Justice (DOJ) appropriations that relates to state medical marijuana laws. DOJ has nonetheless reaffirmed that marijuana growth, possession, and trafficking remain crimes under federal law irrespective of states' positions on marijuana. Rather than targeting individuals for drug use and possession, DOJ generally has focused its counterdrug efforts on criminal networks involved in the drug trade.

Global Implications

The international drug control regime is based on [three United Nations \(U.N.\) treaties](#), which most countries of the world have joined—including Canada, the United States, and Uruguay. Collectively, these treaties require states parties to criminalize certain narcotic drugs and psychotropic substances, including marijuana, and limit legal production, sale, and use to medical and scientific purposes.

The [International Narcotics Control Board \(INCB\)](#), an independent, quasi-judicial expert body mandated to monitor and support implementation of U.N. drug control treaties, has been critical of moves by countries like Canada and Uruguay to legalize marijuana. INCB has argued that such moves are [irreconcilable](#) with the [1961 Single Convention on Narcotic Drugs, as amended by a 1972 Protocol](#). More broadly, INCB has argued that violations of the U.N. drug treaties [weaken](#) the international legal framework and undermine rules-based international order.

Whether deviations from treaty commitments could unravel the existing international drug control regime has emerged as a point of contention among [observers](#). Over the past decade, a growing contingent of [policymakers](#), [public intellectuals](#), and [civil society leaders](#) have questioned the soundness of the U.N. drug control regime and sought to explore alternative policy options for tackling illegal drugs. For its part, the U.N. General Assembly convened in 2016 for a [special session](#) on "The World Drug Problem." The [consensus document](#) adopted at the special session reaffirmed the centrality of the three treaties, but also recognized flexibility to allow for national discretion in the domestic design and implementation of drug policies.

Questions for Congress

Canada's legalization of recreational marijuana poses a range of domestic law enforcement and international foreign policy questions that Congress may consider. They may include the following.

- What are the potential consequences of amending or renegotiating the U.N. drug treaties to account for current national- and state-level marijuana legalization efforts?
- Should the United States [continue to deny entry](#) to Canadian citizens who admit to using marijuana or working in Canada's legal marijuana industry?
- In responding to states with recreational legalization initiatives, [DOJ issued federal enforcement priorities](#) for states with legal marijuana. How might the U.S. monitor the effects of Canadian legalization on the U.S. marijuana supply and crime in the United States?
- Should the U.S. Department of State identify Canada as a "major illicit drug producing country" next year, pursuant to the Foreign Assistance Act of 1961 ([22 U.S.C. 2291h](#))?
- Could the President identify Canadian marijuana businesses as significant foreign narcotics traffickers, pursuant to the Foreign Narcotics Kingpin Designation Act ([21 U.S.C. 1903](#)), or impose sanctions against individuals working in Canada's legal marijuana industry?