

# 臺灣防制新興毒品面臨的 困境及可行之回應對策

A Study on the Predicaments Faced by Taiwan and Feasible  
Countermeasures of New Psychoactive Substances

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## 摘要

行政院「修正新世代反毒策略行動綱領（第二期 2021～2024年）」<sup>1</sup>之緣起，主要是依據蔡英文總統「2020台灣要贏」之反毒政見綱領——「減少毒品供給、減少需求及減少危害」之三減策略，從「減少毒品供給」、「減少毒品需求」及「減少毒品危害」等方向，確定為新世代反毒策略第二期預防機制<sup>2</sup>。本文

- 1 行政院，蘇揆：毒品是犯罪之源，傳統、新興毒品均需全力防堵加強查緝，2020年8月27日報導，<https://www.ey.gov.tw/Page/9277F759E41CCD91/2d8d5145-c226-41a5-8887-ef3b234e9335>（瀏覽日期：2021年12月29日）。
- 2 行政院，「修正新世代反毒策略行動綱領」（核定本），

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關鍵詞：反毒（anti-drug）、少年（juveniles）、毒品（substance）、毒品危害防制條例（Narcotics Hazard Prevention Act）、新興毒品（new psychoactive substances, NPS）

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之初步發現如下：毒品危害防制條例缺乏反毒之主管機關，這是一個非常嚴重之問題，目前雖由臺灣高等檢察署負責統籌緝毒六大系統：檢察、調查、警政、海巡、憲兵、關務等，加強區域協調指揮辦案，然相關執法機關基於自我利益、門戶之見、績效、獎金之分配等因素，以至於緝毒情資、查緝技能、裝備，無法完全共享資源，而有喪失破案先機之嫌。販毒集團交易手法日益進步，我國緝毒機關執法人員需具備更深厚經驗及先進科技、偵查之權限，俾利支持辦案。為尋線追緝販毒網絡管道，卻礙於法律程序規定的限制，或恐陷入自身安危等困境，無法有效率阻絕毒品之氾濫。為打擊毒品溯源之管道，並消弭施毒人數，期許我國科技偵查法草案，在人權考量及法理通情並兼之下，盡速送入立法院，並三讀審查通過，使所有犯罪集團組織之製毒、運毒、販毒等不法行為，均無所遁形。逐步達到「修正新世代反毒策略行動綱領（第二期2021～2024年）」所揭示、預定之「抑制毒品再犯」、「降低毒品新生」之雙重目標。

The Executive Yuan's "New Generation Anti-drug Strategy" (Phase two——2021-2024) has been determined as the first phase of the new-generation anti-drug strategy composed by "reducing drug supply," "reducing drug demand" and "reducing drug harm," and it is the secondary prevention mechanism for the new-generation anti-drug strategy. The Narcotics Hazard Prevention Act lacks the definition of the anti-drug competent authority. Although the Taiwan High Prosecutors Office is currently responsible

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2018 年 11 月 21 日院臺法字第 1070212158 號函核定修正，  
<https://webcache.googleusercontent.com/search?q=cache:U8UEMIWqcfAJ:https://antidrug.moj.gov.tw/dl-2656-f242dfc5-dba3-4948-9805-721af75255ea.html+%cd=1&hl=zh-TW&ct=clink&gl=tw>（瀏覽日期：2022年2月17日）。

for the coordinating and directing the six major anti-drug enforcement systems: Regional Prosecutors Offices, Investigation Bureau (Ministry of Justice), National Police Administration, Coast Guard Administration (Ocean Affairs Council), Republic of China Military Police, Customs Administration (Ministry of Finance) in order to strengthen the regional cooperation for the above different enforcement systems, the anti-drug intelligence information, investigation skills, and equipment resources still cannot fully share for each other and often lose the opportunities to clear up the anti-drug cases. The trading methods for the NPS by the organized crime groups are improving day by day, so the law enforcement officers of Taiwan anti-drug agencies need to have more profound anti-drug experiences and advanced scientific and technological identification authorities and experts to support clearing up the anti-drug cases. The Predicaments faced by Taiwan on cracking down the network channels of the NPS trafficking includes following dimensions: it cannot effectively prevent the proliferation of NPS due to the legal restrictions imposed on the criminal investigation procedures initiated by the Regional Prosecutors Offices, Investigation Bureau (Ministry of Justice), National Police Administration, Coast Guard Administration (Ocean Affairs Council), Republic of China Military Police, Customs Administration (Ministry of Finance), or the fear generated from the law enforcement officers for their own safety. In order to crack down on the channels of NPS and to effectively eliminate the number of NPS using, it is hoped and expected that the Proposed Draft on the “Science and Technology Investigation Act” will be submitted to the Parliament again and to passed it as soon as possible in

order to crack down and to eliminate the NPS production, trafficking, and sales, and let Taiwan to be more and more rich and safe on the world.

## 壹、前言

1988年12月19日聯合國大會第六次全會會議上通過「聯合國禁止非法販運麻醉藥品和精神藥物公約」（United Nations Convention Against Iltraffic in Narcotic Drugs and Psychotropic Substances），嚴加防堵非法販運麻醉藥品和精神藥物，成為國際的三大藥物管制國際公約之一，於1990年11月11日生效。該條約為補強了1961年通過之「麻醉品單一公約」和1971年「精神藥物公約」兩者法律不足之機制<sup>3</sup>及防止毒品氾濫。

我國行政院於2018年11月21日核定「修正新世代反毒策略綱領」<sup>4</sup>，由臺灣高等檢察署負責統籌緝毒六大系統：檢察、調查、警政、海巡、憲兵、關務等執法機關加強區域協調及強勢指揮辦案，以期打擊杜絕毒品無止之禍害。

有關防治新興毒品之相關法律計有少年事件處理法、毒品危害防制條例、科技偵查法草案，其中以科技偵查法草案尚未通過立法<sup>5</sup>，因顧慮緝毒執法者對於人權侵犯或使用新科技偵查辦案的恐有濫權，各界專家學者及民意代表在公聽會上，均以慎重之態度逐條審查，避免殃及無辜或造成無可彌補之傷

3 聯合國，聯合國公約與宣言檢索系統，[https://www-un-org.translate.google.com/zh/documents/treaty/files/UNODC-1988.shtml?\\_x\\_tr\\_sl=zh-CN&\\_x\\_tr\\_tl=zh-TW&\\_x\\_tr\\_hl=zh-TW&\\_x\\_tr\\_pto=sc](https://www-un-org.translate.google.com/zh/documents/treaty/files/UNODC-1988.shtml?_x_tr_sl=zh-CN&_x_tr_tl=zh-TW&_x_tr_hl=zh-TW&_x_tr_pto=sc)（瀏覽日期：2022年1月30日）。

4 行政院，同註2。

5 法務部，法檢字第10904527940號公告，預告制定「科技偵查法」草案，2020年9月8日，<https://www.moj.gov.tw/Public/Files/202009/70320090817536d83f.pdf>（瀏覽日期：2022年2月3日）。