

# I. Background

1. The preambles to the Single Convention on Narcotic Drugs of 1961<sup>1</sup> and the Convention on Psychotropic Substances of 1971<sup>2</sup> contain several adjectives to describe the essence and qualities of those treaties: international, generally acceptable and necessary. “International” emphasized the need to provide for continuous international cooperation and control in order to achieve the aims and objectives of the conventions. “Generally acceptable” described the desire to garner general support, approval and acceptance for the implementation of the minimum common requirements prescribed in the treaties. Finally, “necessary” signified the fact that the international instruments were needed in order to achieve the desired result of protecting the health and welfare of humankind.

2. As the overall goal of the conventions, the health and welfare of humankind was at the heart of the development of the international drug control system. All of the international drug control treaties – the 1961 Convention, the 1971 Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>3</sup> – sprang from that concern. In the preambles to those conventions, parties concretely expressed their interest in protecting the health and welfare of humankind by making those indispensable substances available for medical and scientific purposes while preventing their diversion and abuse.

3. The conventions established a control regime to serve that dual purpose. In addition to limiting the use of narcotic drugs and psychotropic substances exclusively to medical and scientific purposes, the conventions require Governments to take all practicable measures for the prevention of drug abuse and for the early identification, treatment, education, aftercare, rehabilitation and social reintegration of the persons involved (see art. 38 of the 1961 Convention and art. 20 of the 1971 Convention).

4. With almost universal adherence, the international control system for narcotic drugs and psychotropic substances stands as one of the most successful achievements in international cooperation. Almost all States Members of the United Nations are parties to the three conventions: 95 per cent for the 1961 Convention, 93 per cent for the 1971 Convention and 97 per cent for the 1988 Convention, representing some 99 per cent of the world’s population. The periodic reaffirmation by States parties of their commitment to the goals and objectives of those international conventions is a clear indication that, 50 and 60 years after their adoption, the aims and means of the conventions as described by the drafters continue to be shared globally.

5. The mandate of the International Narcotics Control Board (INCB) under the international drug control treaties is to ensure, in cooperation with Governments, that adequate supplies of drugs are available for medical and scientific uses, to prevent the diversion of drugs from licit sources to illicit channels and to prevent illicit production, manufacture, distribution and trafficking (art. 9 of the 1961 Convention). In order to achieve those goals, the Board administers the system of estimates for narcotic drugs and a voluntary assessment system for psychotropic substances, as well as monitoring licit activity. The Board also maintains a permanent dialogue with Governments to assist them in complying with their obligations under the international drug control treaties and, to that end, recommends, where appropriate, that technical or financial assistance be provided.

6. Sixty years after the adoption of the 1961 Convention and 50 years after the adoption of the 1971 Convention, it is also time for INCB to assess and reflect on how the two conventions have functioned and performed in relation to their general goals and their specific provisions and requirements, also taking into consideration the

<sup>1</sup>United Nations, *Treaty Series*, vol. 520, No. 7515.

<sup>2</sup>*Ibid.*, vol. 1019, No. 14956.

<sup>3</sup>*Ibid.*, vol. 1582, No. 27627.

many resolutions of United Nations organs and bodies that have added to the international drug control framework, as well as the new challenges in the world drug situation that have evolved over the past half-century.

7. The Board's assessment is based on its experience from several decades of continuous work with States parties to foster the effective implementation of the conventions. The present document reports specifically on the treaty provisions for which the Board has a particular responsibility or for which its mandate places it in a unique position to provide information on achievements under the 1961 and 1971 Conventions.

8. The 1961 Convention built upon earlier national and international measures to control the cultivation, production, manufacture and distribution of narcotic drugs, and it obliged Governments to take measures against the illicit trafficking and abuse of such drugs. The 1971 Convention was a response to the diversification of the spectrum of drugs of abuse, and it introduced controls over a number of synthetic drugs (hallucinogens, stimulants, hypnotics, sedatives and anxiolytics).

9. The primary objective of the 1961 and 1971 Conventions was to lay out a framework of control measures that would ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion from licit sources into illicit channels. In this regard, it is important to note that the provisions against illicit trafficking and for the prevention of drug use and the treatment of drug dependence, although mandatory, were not as detailed as those relating to the regulation of production, trade and consumption for medical and scientific purposes.

10. The control system established in the 1961 Convention has succeeded in limiting, for each country and territory and throughout the world, the licit cultivation of narcotic plants and the licit production, manufacture and distribution of and trade in narcotic drugs to the quantities required for medical and scientific purposes. At the same time, it has become clear that estimating medical needs in a country is complex and depends on many factors, including the organization and financing of the health system, disease patterns, cultural beliefs, training, education and awareness. The World Health Organization (WHO), together with INCB, developed the *Guide on Estimating Requirements for Substances under International Control*, but many countries lack the data required to use that guidance to their full benefit. Most countries continue to underestimate the actual medical need for the substances, and fear of abuse, stigma, lack of awareness and training, and financial constraints have

led to limited access to medicines for patients in need. In a few countries, on the other hand, there are concerns that those controlled medicines have been widely overprescribed (e.g., the opioid epidemic) and that usage patterns do not adequately reflect medical needs. The limitation of licit supply has been achieved largely through the following:

- (a) Universal acceptance and application of the above-mentioned conventions by parties and non-parties alike;
- (b) The system of estimates, which fixes the limits (which, once approved by the Board, are binding on all Governments) with regard to narcotic drug requirements for medical and scientific purposes;
- (c) Restrictions on the acquisition of narcotic drugs to levels within those limits by means of authorizations.

11. Another achievement of the system has been that the diversion of narcotic drugs from licit sources into illicit channels has been kept to a minimum, despite the large volume of narcotic drugs manufactured and distributed each year. It has been possible to prevent such diversion largely because of the following:

- (a) Strict enforcement of the system of estimates by all Governments and the Board;
- (b) Comprehensive and stringent national controls based on prior authorizations for cultivation, production, manufacture, conversion and compounding of preparations, wholesale trade and retail distribution;
- (c) Accurate record-keeping;
- (d) Domestic monitoring or supervision at all stages of the movement of narcotic drugs;
- (e) Periodic reporting to the Board by parties and non-parties alike;
- (f) Auditing by the Board of statistical and other data furnished by each country and for each drug, together with requests by the Board for explanations and remedial action, if necessary.

12. As for the 1971 Convention, Governments have prohibited the use of substances in Schedule I, except for scientific and very limited medical purposes, and have restricted the licit manufacture of such substances accordingly. The diversion of substances listed in Schedule II to the 1971 Convention from licit sources into illicit channels has been successfully curtailed owing, to a large extent, to the universal application of control measures recommended by the Board and of resolutions adopted by the Economic and Social Council that have served to reinforce the provisions of the Convention.

13. Improvements in the control procedures under the 1971 Convention in response to Economic and Social Council resolutions have helped to stem the diversion of substances listed in Schedules III and IV from international trade. Those resolutions have also led to improved prescribing practices, in particular with regard to barbiturates and other hypnotics, while article 13 of the 1971 Convention has provided parties with a legal basis to engage in bilateral and multilateral cooperation and action against diversion.

14. Since the adoption of those conventions, States parties have developed other instruments to enhance efforts to address illicit cultivation, illicit demand and trafficking through a number of resolutions and declarations in which they expressed their consensus on the need to address the world drug problem and defined specific targets and objectives to support the conventions. Those instruments include the Declaration of the International Conference on Drug Abuse and Illicit Trafficking,<sup>4</sup> the political and ministerial declarations and plans of action adopted in 1990, 1998, 2009 and 2019, and the outcome document of the thirtieth special session of the General Assembly, entitled “Our joint commitment to effectively addressing and countering the world drug problem”, of 2016.<sup>5</sup> A specific system of reporting by countries through the annual report questionnaires was developed to ensure the monitoring of those objectives.

15. One of the main challenges for States when implementing their obligations under the conventions is to determine an appropriate balance in their drug control efforts with regard to the aim of ensuring the availability of medically needed drugs while preventing their abuse and illicit production and trafficking. Although integrated and balanced approaches have existed since the inception of the treaties, they have come to the forefront of international drug control in recent decades. International conventions, by definition, deal with cross-border issues of mutual interest to sovereign States, including international trade. Hence, the conventions focused largely on international trade and trafficking, whereas the development and implementation of measures to prevent and treat drug abuse – while mandated by the conventions – were left to each sovereign State to determine, taking into consideration the local social and cultural context when designing such programmes. Drug use patterns are changing; more synthetic drugs are being used, which often have no legitimate use and can be produced easily in any country. Therefore, drug control efforts must also focus increasingly

on illicit production, manufacture and distribution and the risks of diversion within a country.

16. An assessment of the impact of the conventions should take into account that the implementation of measures under the conventions may not be the only (or even the main) factor influencing the achievement of their aims. Cultural, social, economic and other factors also influence the behaviour of drug producers, traffickers and users. Cause and effect can also be difficult to measure because the data on drug production, use and trafficking are often insufficient and of poor quality, and not all countries collect data in a manner that allows for meaningful analysis. Finally, it is also difficult to reflect on and compare the current situation with what could have happened with the world drug problem in the absence of international agreement on the drug control measures under the conventions.

17. In the light of the above, in the present report the Board has analysed those aspects of the conventions for which it has direct operational responsibility and for which it has received information from States parties over time. The analysis includes the status of adherence to the 1961 and 1971 Conventions, the availability of internationally controlled substances for medical and scientific purposes, the functioning of the control system, the role of the Board in monitoring compliance and penal provisions, and it reflects on current and future challenges to the international drug control system.

18. The international normative framework for global drug control consists of a comprehensive set of conventions, political declarations, resolutions and decisions. Those acts and instruments, which differ in legal nature, are all part of a comprehensive drug control system. The international normative drug control framework was not created by a single act, but has been developed step by step over the past 60 years and even earlier.

19. The basis of this normative framework is the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol.<sup>6</sup> The 1961 Convention was followed by two more treaties: the 1971 Convention and the 1988 Convention. After 1988, with a view to implementing and complementing the conventions, the international community adopted a series of political declarations, plans of action and resolutions from 1990 to 2019 – including the outcome document of the thirtieth special session of the General Assembly, held in 2016 – which

<sup>4</sup>*Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17–26 June 1987* (United Nations publication, Sales No. 87.I.18), chap. I, sect. B.

<sup>5</sup>General Assembly resolution S-30/1, annex.

<sup>6</sup>United Nations, *Treaty Series*, vol. 976, No. 14152.

substantiated the provisions of the conventions, established goals and targets for political action and formulated a number of principles for international cooperation. The conventions, together with the political declarations, plans of action and resolutions, constitute the normative drug control framework.

20. The genesis and development of the international drug control treaties are closely connected with national and international responses to the changing situation with regard to drug abuse and illicit trafficking. At the beginning of the twentieth century, in the absence of national and international norms and agreements on control, the non-medical use of narcotics and psychotropic substances was spreading in a number of countries in an alarming way. The first international conference on narcotic drugs, which was held at Shanghai in 1909 and later became known as the Shanghai Opium Commission, and the subsequent International Opium Convention signed at The Hague in 1912, were the result of the international consensus on how to contain the then unlimited availability of narcotic drugs, in particular opium, for non-medical use in several countries, mainly in East Asia but also in some other parts of the world, which had led to the widespread abuse of those drugs and the related health and social problems.

21. Under the League of Nations, supplementary instruments were added to the earlier treaties: the conventions signed in Geneva in 1925, the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931,<sup>7</sup> and the Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs.<sup>8</sup> Once the United Nations had been established, three new protocols were negotiated: the 1946 Protocol, the 1948 Protocol and the 1953 Protocol.<sup>9</sup>

22. In 1961, the Single Convention on Narcotic Drugs, which merged and replaced all of the previous treaties and agreements on narcotic drugs, was adopted as a universal and comprehensive instrument for drug control. The new treaty simplified the international control machinery and combined the Permanent Central Opium Board and the Drug Supervisory Body into a single unit, namely, the International Narcotics Control Board. The 1961 Convention extended the existing control systems to include the cultivation of plants that were grown as raw materials for narcotic drugs. The 1961 Convention also included the prohibition of traditional consumption,

such as smoking or eating opium, chewing coca leaf, smoking cannabis resin and the non-medical use of cannabis.

23. The 1972 Protocol amending the Single Convention on Narcotic Drugs of 1961<sup>10</sup> increased the role of the INCB in preventing illicit production and distribution and broadened the original approach of the 1961 Convention by modifying article 38, giving more attention to prevention, treatment, education, rehabilitation and social reintegration. In addition, article 36 was amended, introducing the option of alternatives to penal sanctions for trade and possession offences when committed by drug users. Those amendments laid more emphasis on the health dimension and the demand side of the drug problem and opened the door to a more balanced approach. Similar approaches were adopted in the 1971 and 1988 Conventions.

24. A further step in the development of the normative framework was the adoption of the 1971 Convention, which introduced a control regime for a large number of synthetic substances with psychoactive effects (e.g., amphetamines, barbiturates and benzodiazepines). The control measures were initially less strict than those for narcotic drugs, but they were strengthened by decisions and resolutions of the Commission on Narcotic Drugs and the Economic and Social Council, leading, in practice, to greater convergence of the two conventions. Even if those decisions and resolutions are not legally binding, they constitute an important part of the agreed control system.

25. The 1988 Convention further enlarged the normative control framework, especially to address the growing illicit manufacture of and trafficking in substances and precursors. It was perceived as necessary because of the growth in transnational organized crime and drug trafficking and the difficulties of pursuing persons involved in drug-related crime and money-laundering at the international level. The 1988 Convention complemented the two previous conventions in the field of judicial cooperation. Its aims were as follows:

- (a) To harmonize the definition and scope of drug offences at the global level;
- (b) To improve and strengthen international cooperation and coordination among the relevant authorities;
- (c) To provide the relevant authorities with the legal means to effectively interdict international trafficking.

<sup>7</sup>League of Nations, *Treaty Series*, vol. CXXXIX, No. 3219.

<sup>8</sup>*Ibid.*, vol. CXCVIII, No. 4648.

<sup>9</sup>United Nations, *Treaty Series*, vol. 12, No. 186, vol. 44, No. 688, and vol. 456, No. 6555.

<sup>10</sup>*Ibid.*, vol. 976, No. 14151.

26. In addition, the 1988 Convention established a new control system for a different type of substances, namely, the precursor chemicals and solvents frequently used in illicit drug manufacture. Under the 1988 Convention, Governments were obliged to monitor international transactions in those substances and to prevent their diversion from licit to illicit channels. This monitoring system relied on communication between government authorities and the relevant market players in order to identify suspicious transactions. Over the years, it led to new forms of control grounded in cooperation between the controlling agencies and the relevant industry.

27. Moreover, it is worth noting that in the 1988 Convention, it was explicitly stated that any control measures adopted to prevent illicit cultivation and to eradicate plants “shall respect fundamental human rights and shall take due account of traditional licit uses ... as well as the protection of the environment” (art. 14, para. 2).

### Further developments through resolutions of the General Assembly, the Economic and Social Council and the Commission on Narcotic Drugs

28. Since 1961, several resolutions have been adopted by the Commission on Narcotic Drugs and the Economic and Social Council to provide more specific guidance on the implementation of the conventions and to better take into account the realities on the ground, emerging needs and specific aspects.

29. In 1990, the General Assembly, at its seventeenth special session, devoted to the world drug problem, adopted a Political Declaration and a Global Programme of Action<sup>11</sup> that still placed the emphasis on the supply side of the drug phenomenon: the cultivation and production of and trafficking in drugs. It affirmed the principle of shared responsibility in combating drug abuse and illicit traffic in narcotic drugs and psychotropic substances. In order to intensify international cooperation in this direction, the Political Declaration proclaimed the period from 1991 to 2000 the United Nations Decade against Drug Abuse.

30. In 1998, the General Assembly held another special session on the world drug problem and adopted a new Political Declaration accompanied by an Action Plan and

the Declaration on the Guiding Principles of Drug Demand Reduction.<sup>12</sup>

31. The Political Declaration of 1998 (and the associated documents on demand reduction, illicit cultivation and illicit trafficking) proclaimed a number of important principles for the implementation of the conventions, such as the principle of common and shared responsibility, the need for an integrated and balanced approach, conformity with the purposes and principles of the Charter of the United Nations and international law (i.e., sovereignty and territorial integrity of States, non-intervention in the internal affairs of States and all human rights and fundamental freedoms). The Declaration on the Guiding Principles of Drug Demand Reduction responded to “the increasing magnitude of the global drug abuse problem” and stated that “the most effective approach to the drug problem consists of a comprehensive, balanced and coordinated approach, by which supply control and demand reduction reinforce each other”. The Declaration called upon Governments to “pledge a sustained political, social, health and educational commitment to investing in demand reduction programmes”.

32. The Political Declaration of 1998 established the year 2008 as a target for the following:

(a) Eliminating or reducing significantly the illicit manufacture, marketing and trafficking of psychotropic substances, including synthetic drugs, and the diversion of precursors;

(b) Achieving significant and measurable results in the field of demand reduction.

33. In the Political Declaration, Member States were requested to report biennially to the Commission on Narcotic Drugs on their efforts to meet the relevant goals and targets.

34. In the years that followed, the Commission on Narcotic Drugs evaluated, in a broad process, the progress made since 1998, concluding that some progress had been made through positive achievements, but that considerable challenges still persisted and new challenges had emerged. In 2009, the high-level segment of the Commission adopted the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem.<sup>13</sup> The Political Declaration of 2009 reiterated the objective of promoting a society free of

<sup>11</sup>General Assembly resolution S-17/2, annex.

<sup>12</sup>General Assembly resolution S-20/3, annex.

<sup>13</sup>See *Official Records of the Economic and Social Council, 2009, Supplement No. 8 (E/2009/28)*, chap. I, sect. C.

drug abuse. It confirmed the goals and fundamental principles of the previous declaration, in particular the principle of a balanced and integrated approach. However, it also contained some new elements, including the recognition of drug dependence as a multifactorial health disorder. It underlined that drug control is not an isolated system, but part of the global framework of international agreements, and it stressed the necessity of the participation of civil society in the formulation and implementation of drug policy.

35. The Political Declaration of 2009 established 2019 as the target date for States “to eliminate or reduce significantly and measurably” drug supply and demand, the production and cultivation of drugs, the diversion of precursors and money-laundering related to drugs.

36. The next major milestone in the development of the normative drug control framework was set by the thirtieth special session of the General Assembly, held in 2016. The outcome document of that special session, entitled “Our joint commitment to effectively addressing and counteracting the world drug problem”, reaffirmed the determination of the international community “to actively promote a society free of drug abuse” on the basis of the three drug conventions. It stated that action addressing the world drug problem must be in line with the Sustainable Development Goals and welcomed “continued efforts to enhance coherence within the United Nations system at all levels”.

37. Instead of elaborating further on the areas covered in previous political declarations and plans of action (supply reduction, demand reduction and international cooperation), the outcome document contains seven sections in which “operational recommendations” are

formulated, including, for the first time, recommendations on access to controlled medicines, on development and on human rights. It underlined the importance of a health-centred drug policy and reiterated the commitment to respecting, protecting and promoting all human rights, fundamental freedoms and the inherent dignity of all individuals. It stressed more than ever the principle of proportionality and the option of using alternatives to conviction and punishment, and it endorsed measures aimed primarily at reducing the negative health and social consequences of drug abuse.

38. The outcome document also recognized that the three international drug control conventions “allow for sufficient flexibility for States parties to design and implement national drug policies according to their priorities and needs”. At the same time, it confirmed the essential provision of the conventions to restrict the use of psychoactive substances to medical and scientific purposes, thus not authorizing regulations legalizing the non-medical use of drugs which had been adopted in some Member States.

39. In the Political Declaration of 2009, a 10-year period was set for reviewing its goals. Accordingly, a ministerial segment was convened in 2019 to take stock of the implementation of the commitments made and to pave the way for the next decade. With the outcome document adopted in 2016, Member States felt that a new political declaration was not necessary. They committed to accelerating the full implementation of the Political Declaration and Plan of Action adopted in 2009, the Joint Ministerial Statement of 2014<sup>14</sup> and the outcome document of the special session of the General Assembly held in 2016, aimed at achieving all commitments, operational recommendations and aspirational goals set out therein.

<sup>14</sup>Ibid., 2014, *Supplement* No. 8 (E/2014/28), chap. I, sect. C.