

I. OVERVIEW

1. Measures taken nationally and internationally to reduce drug abuse and trafficking have yet to yield more universally visible and decisive results and, consequently, the validity and appropriateness of the drug control measures that Governments have agreed upon in international conventions and resolutions have continued to be questioned. The drug abuse and trafficking situation, which is accompanied by violence and corruption, remains grim, but the International Narcotics Control Board is not convinced that valid alternatives to present policies have been found that would meaningfully reverse the situation. Worldwide efforts to combat drug abuse and trafficking have to be continuous, balanced and in an internationally concerted manner in order for further positive results to be achieved. Drug abuse is closely linked to political, social and economic problems, and progress in these areas will undeniably contribute to the solution of the drug abuse problem. In a number of countries positive developments have been reported and these should be more carefully studied and discussed so that successful experiences in one country can be considered by others. In addition, the mass media are invited to analyse and report on such positive developments.

2. The efforts of the United Nations International Drug Control Programme (UNDCP) are highly appreciated by the Board. During 1992, UNDCP cooperated with 97 countries through 130 regional and country-specific drug control programmes. In addition, the operational work programme for 1992 included 30 global projects supporting a broad range of drug control activities, such as specialized training, research and advisory services. These activities have been implemented by UNDCP in collaboration with various specialized agencies of the United Nations system, other international organizations and various non-governmental organizations. In addition, there are 150 projects in the pipeline. The budget for UNDCP technical cooperation in 1992 and 1993 totals 186 million United States dollars. UNDCP also supports the work of the Board by providing a secretariat administratively integrated into its structure, as well as other support on request.

3. The Board is concerned over the impact on the drug control situation of a number of military, political and economic events in the world. Many newly independent countries reorganizing their administrative structures have not yet adopted legislation that would enable them to adequately control the licit movement of narcotic drugs and psychotropic substances. UNDCP, on the basis of initiatives of the Board in 1988 to assist Governments in strengthening their national drug control administrations, has worked out model legislation of which immediate use can be made in order to create the necessary legislative basis for effective drug control. Other model legislation on specific drug control issues such as money-laundering and precursor* control has been adopted by regional organizations such as the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS). Governments of all countries where national legislation is not yet in line with the international drug control conventions should examine, without delay, existing model legislation with a view to adopting it. Accession to the international drug control treaties and the existence of adequate drug control legislation are prerequisites for effective practical measures and international assistance in the field of drug control. A country without adequate legislation cannot effectively participate in concerted worldwide drug control activities.

*The term "precursor" is used to indicate any of the substances in Table I or Table II of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/CONF.82/15 and Corr.2), except where the context requires a different expression. Such substances are often described as essential chemicals, solvents or precursors, depending on their principal chemical properties. The plenipotentiary conference that adopted the 1988 Convention did not use any one term to describe such substances. Instead, the expression "substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances" was introduced in the Convention. It has become common practice, however, to refer to all such substances simply as "precursors"; although that term is not technically correct, the Board has decided to use it in the present report for the sake of brevity.

4. In some countries, the production and manufacture of and trafficking in illicit drugs have had a strong impact on the economy as a whole, generating a high percentage of the gross national product. Once a national economy is dependent on such illicit activities, any effort to combat them will have an important recessionary impact or will be accompanied by costly compensatory schemes. Therefore, each Government should take all possible measures to prevent illicit drug-related activities from becoming integrated to such an extent into the national economy that combating them will have serious economic consequences.

5. Illicit cultivation of narcotic plants and illicit trafficking in drugs continue to be a threat to the political, economic and social stability of several countries. Links appear to exist between illicit cultivation and drug trafficking and the activities of subversive organizations in some countries in South America and south-east Asia, but similar connections have also been reported in other regions of the world. Proceeds derived from offering "protection" to illicit cultivators and from involvement in the illicit marketing and distribution of the illicit products often constitute the main financial basis of terrorist activities.

6. Close international and regional cooperation is a cornerstone in the fight against the activities of drug cartels. To further develop such concerted efforts, all Governments should bear in mind that their action must be based on national laws compatible not only with the international drug control treaties, but with international law in general. Governments should make sure that their national laws do not violate the sovereignty of other countries. Lack of respect for these principles will harm the good relationship between Governments and will have a negative impact on cooperation. A controversial judicial decision in the United States of America relating to extradition has unfortunately led in 1992 to renewed friction in the relationship between Governments in the Americas.

7. Trafficking groups have succeeded in making available drugs, in particular cannabis, cocaine and heroin, virtually everywhere in the world. Most drug law enforcement authorities have focused their efforts on combating trafficking in heroin and cocaine. Less attention has been given to worldwide trafficking in psychotropic substances that have similar abuse potential and that sometimes produce worse withdrawal effects. Trafficking in and abuse of stimulants and sedative hypnotics are widely occurring not only in Africa and in parts of Asia and Latin America, but also in Europe and North America. Prices for such substances are normally much lower than those for cocaine and heroin and they often serve as substitutes or are the drugs of choice. The Board is very concerned that diversion of the stimulant pemoline from Europe to Africa and Asia continues to occur unabated in spite of numerous interventions. All of these diversions have their origin in Europe or are passing through Europe. Diversion of benzodiazepines is occurring in many parts of the world.

8. In Europe, some companies appear to have taken advantage of certain inadequacies and the diversity in national control measures for psychotropic substances by choosing those countries with the weakest import and export controls for the diversion of tablets into illicit trafficking worldwide. Therefore, the Board hopes that the Conference on Control of International Trade in Psychotropic Substances in Europe, to be held at Strasbourg from 3 to 5 March 1993, will help to bring to an end the diversion of psychotropic substances from Europe. The Conference is being organized jointly by the Board and the Pompidou Group of the Council of Europe. Concerted action in the field of legislation and law enforcement in Europe is needed if efforts of UNDCP and the Board to strengthen drug control administrations in developing countries are to have a real impact on the abuse of and traffic in psychotropic substances.

9. While recognizing the necessity of efficient law enforcement measures, most Governments seem to agree that more efforts must be made in the field of prevention, treatment and rehabilitation. Since drug abuse is related to psychosocial problems in general, the solution of such problems will also contribute to the reduction of drug abuse. General psychosocial problems may only be solved in countries where it has been decided that the necessary resources should be allocated for that purpose.

10. In almost all countries, most of the funds made available for measures against drug abuse are being used by the law enforcement sector. The time has come to evaluate more carefully the effects of police efforts to curb drug abuse and, in particular, illicit trafficking. Only a few countries have introduced effective mechanisms through which the law enforcement sector cooperates closely with the treatment and rehabilitation sector. In Sweden, for example, such close cooperation helps to keep down the level of demand for illicit drugs and ensures that a maximum number of drug abusers are identified by the authorities and are offered treatment and rehabilitation.

11. The rise of the human immunodeficiency virus (HIV) pandemic during the last decade, in both developed and developing countries, has been significant, particularly among drug abusers. There is considerable regional variation in the prevalence of HIV among drug abusers. Anonymous tests for HIV have been conducted in most European countries; however, sampling bias may account for some of the variation. Among persons who administer drugs by injection, the proportion estimated to be infected with HIV ranges from 1-5 per cent in the United Kingdom of Great Britain and Northern Ireland to 20 per cent in Germany, 30 per cent in the Netherlands, 30-80 per cent in Italy, 40-60 per cent in Spain and 58 per cent in France. There is a need for more adequate epidemiological data on the extent and nature of the relationship between drug abuse and HIV infection. The results of studies on the subject should be taken into consideration in developing national drug policies.

12. The Board has been closely following the emergence of proposals to legalize the non-medical use of drugs, in effect, the recreational use of all or some narcotic drugs and/or psychotropic substances. Such action would be contrary to existing provisions of the international drug control treaties. Any party to those treaties permitting such use would be failing to implement in good faith the provisions of the treaties and, in addition, would be undermining the cornerstone of the international drug control system, namely the universal application of all treaty provisions. Nonetheless, movements advocating such legalization have increased their activities in a number of consumer and producer countries, sometimes with institutional support. In order to facilitate the task of Governments, the Commission on Narcotic Drugs and other national and international policy-making bodies confronted with such proposals, a short analysis of the meaning and consequences of legalization of the non-medical use of drugs is presented below.

A. View of the Board on the question of legalization of the non-medical use of drugs

13. The debate on legalization of the non-medical use of drugs, together with its media coverage, reflects the widespread misunderstanding of the obligations of parties to the international drug control treaties, particularly with regard to the extent to which parties are required to penalize non-medical personal consumption by drug abusers. It is necessary to clarify these obligations before examining some of the main arguments put forward by advocates of legalization.

14. In general, parties to the Single Convention on Narcotic Drugs of 1961 1/ and the Convention on Psychotropic Substances of 1971 2/ are required to limit to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs. To that end, each party to the 1961 Convention is required in article 4 of that Convention to take "such legislative and administrative measures as may be necessary" and each party to the 1971 Convention is required in article 5 of that Convention to take "such measures as it considers appropriate".

15. Under certain conditions, the 1961 Convention, the 1971 Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 3/ also require parties to establish as punishable offences a wide range of activities relating to controlled drugs. None of the conventions require illicit drug consumption *per se* to be established as a

punishable offence. Instead the conventions deal with illicit drug consumption indirectly in their provisions on activities such as the cultivation, purchase or possession of illicit drugs. In so far as these activities are engaged in for the purpose of non-medical personal consumption:

(a) Parties to the 1961 Convention and the 1971 Convention may take the view that they are not required to establish such activities as criminal offences under law. The basis for this view appears to be that, since obligations relating to penal provisions appear among articles relating to illicit traffic, the obligations only apply to cultivation, purchase or possession for the purpose of illicit trafficking;

(b) Unless to do so would be contrary to the constitutional principles and basic concepts of their legal systems, only the 1988 Convention clearly requires parties to establish as criminal offences under law the possession, purchase or cultivation of controlled drugs for the purpose of non-medical personal consumption;

(c) None of the conventions requires a party to convict or punish drug abusers who commit such offences even when they have been established as punishable offences. The party may choose to deal with drug abusers through alternative non-penal measures involving treatment, education, after-care, rehabilitation or social reintegration. Nevertheless, a party may choose to apply penal sanctions in such cases, since each convention permits a party to adopt more strict or severe measures than those provided by the convention if, in its opinion, such measures are desirable or necessary to prevent or suppress illicit trafficking.

16. Turning to the main arguments put forward by those in favour of legalization, examination of just three of those arguments will serve to illustrate some of the concerns of the Board. Advocates of legalization suggest that:

(a) "Legalization is justified, since law enforcement has failed to control illicit supply or to reduce illicit demand": This argument, however, ignores the fact that legal sanctions have helped to deter or delay potential abusers, thereby limiting the growth of the illicit market;

(b) "Given current levels of access to illicit drugs, legalization would only have a minimum adverse impact on current drug abuse levels and would thus generate few additional health, safety or behavioural problems": This argument, however, ignores the potential expansion of demand by individuals and society, particularly among young people, which could follow the removal of legal barriers, the freeing of entrepreneurial initiative and the lowering of market prices. It also ignores the possibility that there may be a substantial increase in economic and social costs, particularly to health-care systems (given the global experience with alcohol and tobacco abuse). This may include a sharp increase in costs resulting from accident-related injuries and other health-related problems;

(c) "Legalization would remove evils created by drug laws, such as corruption, violence and drug-related crime, which are worse than the drugs themselves": This argument assumes that drug-related black markets and corruption would significantly decline, but surely no community would accept making available, without any restriction, all drugs of abuse to all existing and potential abusers (including children) at sufficiently low prices. Even if one assumes that crime to support personal drug abuse may decline, crime committed under the influence of drugs, as well as chronic violence in the family and in the community, may increase. The assumption that organized criminal activity and related violence would significantly decrease may underestimate the capacity of organized crime to adjust to changing conditions without significant loss of economic, political or social power.

17. Moreover, it appears to the Board that advocates of legalization have not adequately dealt with the tough practical questions that must be answered if proposals for legalization of the non-medical use of narcotic drugs and psychotropic substances are to be taken more seriously. The following questions help to demonstrate some of the complexities implicit in the proposals:

(a) What drugs would be legalized (cannabis, cocaine, crack (the free-base form of cocaine), heroin, hallucinogens, "ecstasy")? According to what criteria would they be legalized and who would determine those criteria?

(b) What potency levels would be permitted (5 per cent, 10 per cent or 14 per cent tetrahydrocannabinol (THC) content of cannabis; Burmese No. 3 grade, "Mexican black tar" or "China white" heroin)?

(c) Since legalization would entail the removal of prescription requirements for psychoactive pharmaceuticals, what would be done to control the adverse consequences of their non-medical use? How would the marketing of such new drugs be dealt with? Would they be permitted without even a qualifying period and evaluation? What would happen with "designer drugs"?

(d) Would production and manufacture be limited? If so, how would the limits be enforced (e.g. limited to home production for personal use or to cottage industries or to major enterprises)?

(e) What market restrictions would there be? Would the private sector or the public sector or both be involved? How would price, purity and potency levels be established and regulated? Would advertising be permitted? If so, what drugs would be advertised and by whom?

(f) Where would such drugs be sold (e.g. over the counter, through the mail, vending machines or restaurants)? Would the sale of such drugs be limited to dependent abusers? If so, how many and from which cities or countries? What about experimenters and those not yet granted dependent status?

(g) Would there be age limits for the use of legalized drugs and, if so, for which ones (e.g. access to cannabis at age 16, to cocaine at age 18 and to heroin at age 21)? Would there be restrictions on use because of impairment of function (e.g. restrictions on use by transport, defence, nuclear power and other workers)?

(h) For any restrictions found necessary or desirable, what agency would enforce the law, what penalties and sanctions would be established for violations and how would the risks of corruption and continued "illicit traffic" be dealt with?

18. These questions are by no means exhaustive. A proper analysis of the proposals is hindered by unclear definitions of some of the terms most frequently used. For example, it is difficult to form an opinion about the distinction between so-called "hard" and "soft" drugs because these are popular expressions that have never been clearly defined. These terms appear usually in the vocabulary of those who are in favour of the legalization of the use of some narcotic drugs, first of all cannabis. However, the use of these terms can be misleading, implying that the difference between "hard" and "soft" drugs can be equated with the well-known clear distinction between hard and soft drinks.

19. It appears that the basic aim of the advocates of legalization is to allow the recreational use of narcotic drugs and/or psychotropic substances. It must be noted that such a step would create a legal demand for those drugs and, consequently, the current restrictions in respect of supply (cultivation, production, manufacture, trade and distribution) would need to be abolished or fundamentally changed. History offers a good example of the consequences of such a change. The result would be similar to the situation of China in the nineteenth century, when, after the Opium War, the country was forced to accept the free availability of opium. Following that action, the number of opium addicts in the country increased drastically to an estimated 20 million.

20. The availability of narcotic drugs and psychotropic substances is limited not only by the provisions of the international drug control treaties but by national pharmaceutical laws and regulations. The majority of narcotic drugs and psychotropic substances are pharmaceuticals that

are currently subject to twofold regulations: restrictions designed to prevent drug abuse; and prescribing and dispensing limitations designed to prevent health injuries and to promote compliance with good clinical practice. Without removing public health regulations, it would be impossible to ensure the availability of opiates, stimulants (cocaine or amphetamines), barbiturates, benzodiazepines etc. for recreational purposes.

21. It can be assumed that advocates of the legalization of some narcotic drugs and/or psychotropic substances do not intend to ruin the pharmaceutical regulatory system, but the maintenance of this system with the simultaneous legalization of, say, heroin or cocaine, would create an absurd situation: restrictions would apply to less addictive or non-addictive pharmaceuticals, but not to members of the same pharmacological categories having greater abuse potential and dependence-producing properties.

22. Most of the debates on legalization of the non-medical (i.e. recreational) use of drugs are at present centred on cannabis. Since the adoption of the 1961 Convention, very potent new products like "cannabis oil" or "hashish oil" (e.g. "cannabis concentrate") have appeared on the illicit markets and new technologies have been applied to increase the THC content of cultivated cannabis plants. In this context, the Board would like to draw the attention of industrialized countries to the fact that in 1961 they initiated the introduction of the international control of cannabis at a period when serious cannabis abuse problems did not exist in their countries. Countries in which cannabis consumption was traditional implemented the provisions of the 1961 Convention. If cannabis were to be legalized, the responsibility of industrialized countries would be enormous: they would be obliged to justify, at the same time, their 1961 decision to prohibit cannabis and their new decision to add cannabis to other legalized substances like alcohol and tobacco.

23. The arguments put forward by advocates of legalization, although well-intended, can appear to be logical and simple when they are not; they do not withstand critical evaluation and they tend to run contrary to general experience. The proposals in favour of legalization have tended to present possible legalization benefits against the costs of maintaining existing legal controls, without adequately addressing themselves to either the benefits of those controls or the social and economic costs of removing them. As the Board sees it, legalization advocates have not yet presented a sufficiently comprehensive, coherent or viable alternative to the present system of international drug abuse control. The Board firmly believes that permitting the recreational use of drugs would have a substantial and irreversible adverse impact on public health, social well-being and the international drug control system.

24. A pilot study to evaluate the results of prescribing heroin to a limited number of persons severely dependent on opiates is being conducted in Switzerland. The Board is of the opinion that this experiment should be considered a monitored clinical trial and should not be interpreted as a step towards decriminalization or even legalization of opiate abuse.

B. Attempts to develop a legal international market for coca products

25. As legalization movements seek to gain media and political attention, particularly in Europe, a concerted campaign has been conducted by Bolivia to relax the controls under the international drug control treaties over coca leaves and a variety of coca-based products such as coca tea and coca toothpaste. The campaign is contrary to the provisions and aims of the 1961 Convention. Although in Peru similar campaigns have been undertaken on a smaller scale, the Board understands that other producer States in the region do not support relaxation of the controls of the 1961 Convention.

26. The 1961 Convention specifically limits all such activities, from production to use of coca leaves and of coca-leaf products.* Relaxing the controls of that Convention to enable coca leaves and coca-leaf products to be marketed internationally for other purposes would require a radical change in the attitude of the international community and amendments to the 1961 Convention. Without amending the 1961 Convention, its control over imports for non-medical or scientific purposes would effectively embargo attempted exports for such purposes.

27. The mandate of the Board is to ensure that provisions agreed upon are actually implemented by all parties. For that purpose, the Board has been in contact with all Governments, including the two concerned in this case, and has repeatedly drawn their attention to the provisions of the 1961 Convention governing coca leaves. The major problem has been, for the last few decades, the inadequate implementation of those provisions, particularly in relation to the cultivation of the coca bush and the use of coca leaves as a result of the prevailing circumstances in the countries concerned. National legislation should be brought more in line with the relevant requirements of the 1961 Convention.

28. The Board is confident that the two countries concerned will continue their constructive work towards fulfilling their control obligations under the provisions of the 1961 Convention in relation to the coca bush and coca leaves. A slackening of the control over the main raw material used in cocaine manufacture, namely coca leaves, would certainly not be in line with concerted international efforts to introduce controls over substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances.

*The 1961 Convention contains special provisions aimed at the eradication of illicit cultivation of the coca bush and the illicit use of coca leaves (articles 22, 26 and 27). The Convention also allows a party to reserve the right to permit temporarily the chewing of coca leaves in any of its territories, subject to the restriction that it should be abolished within 25 years of the entry into force of that Convention (14 December 1989).

The 1988 Convention contains mandatory measures to prevent illicit cultivation of and to eradicate the coca bush. Paragraph 2 of article 14 of that Convention requires that these measures must, among other things, "take due account of traditional licit uses, where there is historic evidence of such use" (E/CONF.82/15 and Corr. 2). Because of concern that this paragraph might be interpreted as lessening the obligations of parties to the 1961 Convention, a special non-derogation provision was included in paragraph 1 of article 14 of the 1988 Convention to reinforce the general non-derogation provision in article 25 of that Convention.