

II. Guidelines

A. Legislative and regulatory provisions

General legislation on the Internet and the mail

Governments are encouraged to review their legislation to ensure the inclusion of legislative and administrative measures that enable national authorities to respond adequately and in a timely manner to the illegal sale of internationally controlled substances through the Internet.

Guideline 1: The Board recommends that Governments include in their national legislation provisions that empower the appropriate authorities to investigate and take legal action against Internet pharmacies and other websites, hosted by Internet service providers operating from their country, that are used in the illegal sale of internationally controlled substances.

- It is recommended that Internet service providers be required to cooperate fully in such investigations and law enforcement actions.
- Governments are advised to include in their national licensing and registration processes requirements obligating Internet service providers to shut down the websites and domains of clients engaged in illicit activities. Internet service providers should also be obligated to include in their contractual agreements (terms and conditions) with clients a termination clause, to be applied in cases of illegal activities being carried out by the client or of illegal content being posted on the client's website.⁵
- It is recommended that Internet service providers be required by law to keep, for a minimum period of one year, information regarding the identity of the owners of Internet Protocol addresses used when accessing the Internet, independently of whether the addresses assigned are static or dynamic, in order to assist in criminal investigations. Commercial entities providing access to the Internet (such as Internet cafes and wireless local area network providers) should be required by law to hold, for a minimum period of six months, information on the identity of costumers using their services.

⁵In a number of countries, this legal requirement is already in force. Whenever competent authorities inform Internet service providers about infringements of existing legislation, the service provider is legally obliged to remove the offensive pages. If they do not do so, the service provider becomes responsible for the content of the infringing pages and may be sanctioned accordingly. Such infringements may range from violations of national legislative provisions regulating pharmacy services to criminal activities (e.g. drug trafficking).

Guideline 2: Since almost all the internationally controlled substances sold illegally through the Internet are shipped by mail, Governments are advised to adopt national legislation for the designated routing and inspection of all mail entering and exiting the country, including of items handled by international courier companies.

Guideline 3: The Board recommends that Governments ensure that the national legislation of other States prohibiting the shipment by mail of internationally controlled substances is fully respected and that such shipments to those countries are intercepted.

Specific legislation on Internet pharmacies

Governments whose national legislation does not prohibit activities of Internet pharmacies are advised to establish a basic framework for regulating the operations of Internet pharmacies.

Guideline 4: The Board recommends that Governments require Internet pharmacies through which internationally controlled substances are sold and that operate within their jurisdiction to be registered and obtain licences for dispensing preparations containing internationally controlled substances.

- The establishments and premises used by those operating an Internet pharmacy to purchase, store or dispense internationally controlled substances in response to orders received through the Internet should be licensed.
- In cases in which internationally controlled substances sold through an Internet pharmacy are stored in and shipped from a country other than the country of registration of the Internet pharmacy, those operating the Internet pharmacy must also obtain a licence for its establishments and premises from the Government of the country where the substances are stored and consignments are shipped from.
- Internet pharmacies should be required to display information (street address, e-mail address and telephone number) identifying the physical location of the business and to disclose, upon request, information identifying the pharmacist, the name of the licensing authority and the date of issuance and the number of the licence associated with the pharmacy.

Guideline 5: The Board recommends that Governments establish standards of good professional practice for the provision of pharmaceutical services via the Internet. Those should include all the legal and administrative requirements that traditional pharmacies are required to meet.

- Providers should be required to comply with general quality assurance principles for the delivery of medicines, such as adequate packaging, transportation and delivery, to ensure that the quality

and effectiveness of the medicines are preserved; registering the delivery so that only the person specified on the prescription or an individual designated by that person can receive the medicines; and ensuring appropriate means of shipment to allow the medicines to be tracked.

- Providers should be required to give consultations and information to patients on the correct and safe use of the medicines purchased and on the preservation of medicinal products.
- Providers should be required to give recipients of pharmaceuticals purchased via the Internet the contact details of the dispensing Internet pharmacy or of another licensed retailer and to advise recipients to contact their attending physician if they experience medication-related problems or if any adverse effects occur.
- Internet pharmacies should be part of the national quality assurance system to allow the notification of adverse effects, recalls and quality defects related to pharmaceuticals.
- Providers should be obligated to adhere to standards on storing, reporting and keeping records (including on recommendations and other information provided to customers and on the purchase and sale of all medicines) for a minimum period of two years. Such records should be subject to regular inspections.
- Controlled substances should only be sold to customers with valid prescriptions from a medical practitioner; such prescriptions should be in a format (whether on paper or in the form of an e-prescription) that conforms with national legislation. Governments should prohibit the issuance of prescriptions prepared merely on the basis of an online questionnaire or consultation. Prescription drugs should only be provided in the framework of a qualified medical relationship, which is expected to involve at least one medical examination during which the patient is in the presence of a medical practitioner.

Guideline 6: The Board recommends that Governments establish standards and publish guidelines for doctors providing their services to Internet pharmacies on patient evaluation, treatment and consultation, on the issuing of prescriptions and on the maintenance of medical records.

- Governments are advised to raise the medical community's awareness of the legal requirements, risks and implications with respect to the sale of internationally controlled substances through Internet pharmacies.

Legislation concerning internationally controlled substances

The prerequisite for adequately controlling internationally controlled substances is the implementation of all the provisions of the international drug control treaties, Commission on Narcotic Drugs resolutions 43/8 and 50/11 and Economic and Social Council resolutions 1981/7 of

6 May 1981, 1985/15 of 28 May 1985, 1987/30 of 26 May 1987, 1991/44 of 21 June 1991, 1993/38 of 27 July 1993, 1996/30 of 24 July 1996 and 2007/9 of 25 July 2007, including the provisions concerning international trade (such as the import and export authorization system), the system of estimates for narcotic drugs and the system of assessments for psychotropic substances.

Guideline 7: Governments of countries where Internet pharmacies are permitted to dispense internationally controlled substances within and beyond the national territory are advised to evaluate whether their national regulatory and legal controls, including sanctions for offences, are sufficient for ensuring that Internet pharmacies operate in full compliance with the provisions of the three international drug control treaties.

Guideline 8: The Board recommends that Governments whose national and regulatory controls are not adequate to prevent and sanction the illegal sale of internationally controlled substances through Internet pharmacies and other websites should adopt corrective measures.

B. General measures

Monitoring supply channels

Most narcotic drugs and psychotropic substances sold illegally through the Internet are either pharmaceuticals containing controlled substances that have been diverted from licit supply channels (including licit manufacturing, international trade and domestic distribution channels) or illegally manufactured preparations, i.e. counterfeits. Counterfeits are manufactured either using diverted raw materials, illegally manufactured base substances or other substances used as substitutes for the original narcotic drug or psychotropic substance.

Guideline 9: The Board recommends that Governments assess the adequacy of existing regulations on manufacture and trade control, including reporting and inspection systems, identify weaknesses in such control systems and strengthen them if necessary.

Information exchange

To allow rapid action to be taken against illegal activities carried out through Internet pharmacies, States need to establish effective mechanisms that allow information to be exchanged on specific cases and on the *modi operandi* adopted by those illegally selling internationally controlled substances, at the national and international levels, through the Internet. Such information exchange should take place between, *inter alia*, Government offices and industries involved in Internet services.

Should assistance be needed, the Board is prepared to support Governments in that respect.

Guideline 10: In order to ensure a rapid exchange of data and experiences, Governments are advised to establish mechanisms for sharing information on suspicious transactions with the competent authorities of other States concerned as well as with the Board, through the creation of a single national contact point.

Guideline 11: Governments detecting the illegal sale of internationally controlled substances through the Internet are requested to immediately submit information on such sale to the competent authorities of States involved and inform the Board.

Guideline 12: The Board recommends that Governments provide information to the Secretary-General on national laws affecting the activities of Internet pharmacies, such as legal provisions regarding the importation of internationally controlled substances by mail and regulations governing prescription requirements.

Guideline 13: Governments are advised to inform industries involved in Internet transactions about the illegal sale of preparations containing internationally controlled substances through the Internet.

Guideline 14: Government agencies are advised to establish, in accordance with national legislation, relations with industries whose services are misused for the illegal sale of internationally controlled substances through the Internet, such as Internet service providers, postal and courier services and financial services such as banking, credit card and electronic payment services, and request their support in investigating illegal operations.

C. National and international cooperation

National cooperation mechanisms

Prerequisites for effective national cooperation include the establishment of cooperation mechanisms and the clear identification of the role and responsibility of all regulatory and law enforcement offices and agencies concerned.

Guideline 15: The Board recommends that Governments encourage inter-ministerial cooperation on issues regarding the control of Internet pharmacies and similar websites with a view to developing policies and conducting operational activities within a well-coordinated and focused framework.

- Such inter-ministerial cooperation should include all the main responsible authorities, including those responsible for health (the

ministry of health, the pharmaceutical board or inspectorate etc.), drug control (if other than the ministry of health), finance and customs, law enforcement (the police, the criminal intelligence services, the prosecutor's office etc.), postal services and telecommunication and information services (the ministry of industry, the ministry of the economy etc.).

- Governments are encouraged to ensure that adequate training is available to enable law enforcement officers, members of the judiciary and staff of regulatory and drug control authorities to strengthen control of narcotic drugs and psychotropic substances in general and to take action against the illegal sale of internationally controlled substances via the Internet.
- The specific office or offices responsible for initiating law enforcement and judicial proceedings should be designated and informed as soon as an illicit sale has been detected.

Guideline 16: The Board recommends that Governments make efforts to gather information on drug trafficking through the Internet, including on the illegal sale of internationally controlled substances, and consider establishing appropriate control entities, such as "cyberpatrol units".

- In a number of countries, specific police or other law enforcement units are investigating various aspects of cybercrime, including child pornography, Internet fraud, system damages, drug and arms trafficking and terrorism. If Governments are not in a position to establish a special unit dedicated to monitoring the illegal sale of internationally controlled substances through the Internet, general cybercrime units should be charged with monitoring the Internet to detect whether narcotic drugs and psychotropic substances are being sold illegally.
- Alternatively, Governments could establish special teams charged with investigating drug trafficking, including the illegal sale of internationally controlled substances, through the Internet. To ensure complementarity, authorities should inform each other about such activities.
- Professional associations such as pharmacy guilds and medical chambers should be encouraged to look for suspicious websites through which medicines are sold and cooperate in investigations.
- Governments in a position to do so could enlist public support by establishing appropriate websites for public/private cooperation and national and international telephone hotlines, thus enabling individuals to report any illegal sale of such controlled substances.

Guideline 17: Governments are advised to encourage health authorities, law enforcement agencies (police and customs) and postal services to

cooperate closely. Governments may want to consider measures for strengthening cooperation mechanisms that are already functioning successfully in a number of countries.

- Pharmacists are made available to assist post office staff dealing with parcels at all times, either by assigning their presence at the post office while on duty or by requiring them to be on call, thus ensuring permanent coverage.
- Parcels can only enter a country through a limited number of special and properly equipped customs entry points.
- Customs authorities handling mail are empowered to seize suspicious mail and parcels and initiate investigations.

Guideline 18: The Board recommends that Governments alert private postal and courier service providers about the illegal sale of internationally controlled substances through the Internet and give such service providers the information and training they need to identify suspicious shipments.

- Private postal and courier service providers should be informed about cases involving the illegal sale of internationally controlled substances through the Internet with a view to helping them enhance their screening process by making use of the known addresses of suspicious senders and receivers.
- Private postal and courier service providers should be informed that suspicious consignments of nationally or internationally controlled substances must be reported immediately to the competent authorities.

Guideline 19: The Board recommends that Governments establish cooperation mechanisms with all industries involved in the sale of controlled substances through the Internet.

- Cooperation mechanisms could be established with manufacturers, wholesalers and retailers of pharmaceutical products, or their professional associations, as well as with Internet service providers, providers of financial services (such as banking, credit card and electronic payment services) and pharmaceutical associations.

Guideline 20: States whose national legislation allows Internet pharmacies to operate are advised to encourage health authorities and pharmaceutical associations to establish a certification programme for bona fide pharmacies in order to allow patients to verify the legitimacy of Internet pharmacies.

Guideline 21: The Board recommends that Governments make efforts, for example in cooperation with consumer groups, to increase public

awareness about the risks of purchasing internationally controlled substances through unlicensed Internet pharmacies.

- Governments should sensitize the general public about the illegality of purchasing internationally controlled substances through the Internet from unauthorized individuals and businesses.
- The public should be made aware of the health risks of such purchases, in particular with regard to the uncertain quality of the products and the lack of sound medical advice on their appropriate usage.

International cooperation

Successful cases of international cooperation reaffirm the importance of sharing expertise and standardizing data collection. The investigation of specific cases of illegal sales rely on rapid exchange of information and concerted action between States concerned.

Guideline 22: Governments with experience in establishing and enforcing effective regulatory measures, including relevant legislation and administrative provisions, are requested to make their expertise available to other States by, inter alia, organizing workshops, providing training and disseminating material (e.g. model legislation).

Guideline 23: Governments with experience in identifying, investigating and prosecuting the illegal sale of preparations containing internationally controlled substances through the Internet are requested to provide training in or organize the training of national competent authorities and law enforcement officers of other countries.⁶

Guideline 24: The Board recommends that Governments ensure that their national authorities respond in an appropriate manner to requests for cooperation from other States in cases involving the illegal sale of preparations containing internationally controlled substances through the Internet.

- Countries of origin of illegal shipments should, upon receipt of information or request for cooperation, respond in a timely manner by taking measures to stop the illegal activities, initiating criminal proceedings and adequately sanctioning offenders.

⁶In 2006, INTERPOL launched Project Drug.net to tackle the purchase, sale and production of prescription drugs and anabolic steroids through the Internet. In the framework of that project, a number of training workshops have been organized and a training manual has been published on the restricted pages of the INTERPOL website.

Guideline 25: The Board recommends that Governments introduce adequate standards for investigating cases involving seizures of internationally controlled substances that were sold illegally through the Internet; such standards should include minimum requirements for collecting and reporting data.

- Data on seizures, whether required for the further investigation of specific cases or for analysis of trends, should be reported to all States concerned and all international organizations working in this field (e.g. UNODC, the Board, the Universal Postal Union, INTERPOL and the World Customs Organization). Minimum reporting requirements include information on the quantity seized, the international non-proprietary name of the drug or the name of the preparation, the pharmaceutical form of the preparation seized, the country of origin of the shipment, the country of destination of the shipment, information on the offending website, sources of supply etc.