

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:

