
Special Session of the General Assembly devoted to the fight against the illicit production, sale, demand, traffic and distribution of Narcotic drugs and Psychotropic substances and related activities, 1998.

INCB/PRE

Recommendations by the International Narcotics Control Board

MEASURES TO ENHANCE THE CONTROL AND MONITORING OF PRECURSORS FREQUENTLY USED IN THE MANUFACTURE OF ILLICIT DRUGS



INTERNATIONAL NARCOTICS CONTROL BOARD

Introduction

1. At its fifty-first session, the General Assembly adopted resolution 51/64 of 12 December 1996 by which it decided to convene a special session on international drug control in June 1998. In that resolution, the General Assembly invited organs, organizations and specialized agencies of the United Nations system to contribute fully to the preparations for the special session of the General Assembly, in particular by submitting to the Commission on Narcotic Drugs, as the preparatory body for the special session, concrete recommendations on the issues to be addressed by the special session.

2. At its sixty-second session, held from 5 to 16 May 1997 at Vienna, the International Narcotics Control Board (INCB) decided to respond to the invitation by the General Assembly by presenting a series of documents containing concrete recommendations that INCB has made on issues to be dealt with at the special session of the General Assembly, identified by the Commission on Narcotic Drugs, acting as the preparatory body for the special session.

3. The series of documents of the Board refer to the conclusions and recommendations made by the Board in its annual reports or similar documents, over the last years for consideration of Governments. The documents are meant to facilitate Governments to reach agreement in their deliberations of the various subjects to be discussed at the special session of the General Assembly. Documents have been prepared on:

- < Measures to counter illicit manufacture of, trafficking in and abuse of stimulants (INCB/STI)
- < Measures to enhance the control and monitoring of precursors frequently used in the manufacture of illicit drugs (Document INCB/PRE)
- < Measures to counter money-laundering (Document INCB/MON)
- < Measures to promote judicial cooperation (Document INCB/JUD)

4. A further document which will outline concrete recommendations of the Board on the issue of demand reduction will be made available to the second session of the Commission on Narcotic Drugs, acting as preparatory body for the special session, to be held from 27 February to 5 March 1998, in the course of the forty-first session of the Commission on Narcotic Drugs.

5. The documents of the Board are available in English, French and Spanish, the working languages of the Commission on Narcotic Drugs.

**SUMMARY OF THE RECOMMENDATIONS OF THE INTERNATIONAL
NARCOTICS CONTROL BOARD RELEVANT TO THE CONTROL
AND MONITORING OF PRECURSORS FREQUENTLY USED
IN THE ILLICIT MANUFACTURE OF DRUGS**

6. The present document summarizes the recommendations of the Board relating to the application of controls by Governments with respect to the implementation of article 12 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, as contained in the annual reports of the Board on the implementation of that article. It reproduces Annex V of the Report of the Board for 1996 on the implementation of article 12 of the 1988 Convention (E/INCB/1996/4), updated to include also the recommendations of the Board contained in the body of that report. Quotes from the Report of the Board are shown in italics. For ease of reference, the recommendations appear under the following headings: legislation and specific control measures; identifying a competent authority responsible for implementation of article 12; providing the Board with details of control measures applied by Governments; collection of data and their provision to the Board; and sharing of information on individual transactions.

A. Legislation and specific control measures

1. Legislation

7. *Governments that have not already done so should establish a legislative basis for regulatory control over substances listed in Tables I and II, and, within that framework, provide for related sanctions and penal provisions to ensure strict enforcement of the legislation put in place.*

2. Working mechanisms and operating procedures

8. *Governments should, whether or not they already have in place any comprehensive legislation for the control of substances listed in Tables I and II, establish or refine practical working mechanisms and operating procedures to monitor the licit movement of such substances. Such working mechanisms and procedures can be established through informal, yet institutionalized, arrangements even when the relevant legislation is not yet in place.*

9. *Such working mechanisms and procedures should incorporate the activities of all the relevant regulatory and enforcement authorities involved in precursor control. They should also encompass the work of industry to elicit relevant data from chemical producers, distributors and trade organizations, having due regard for lawful commercial interests.*

3. Control measures in general

10. *Within geographical regions, in particular, control measures should be harmonized so that weak controls in one country do not jeopardize the efforts of neighbouring countries where controls may be more effective.*

4. International trade

11. *Governments that experience difficulties in monitoring imports of substances listed in Table I should invoke article 12, paragraph 10(a). Governments may wish to note the possibility of requesting that a pre-export notification for all substances listed in Table II be also sent. In such cases, the Secretary-General has informed all Governments that, at the request of the notifying Government, a pre-export notification for substances listed in Table II is also required.*

12. *Exporting countries should examine the scope of their current controls over international trade with a view to strengthening them. For export controls to be effective, it is also necessary to monitor imports, some of which may later be re-exported and subsequently diverted elsewhere.*

13. *Certain Governments that use a targeted approach monitor only shipments to certain areas, and not transactions involving shipments to other areas. However, trafficking quickly exploit weaknesses in controls applied by Governments. All exporting and transit countries should therefore re-examine the scope of their current controls over international trade, and make amendments, as necessary.*

5. Domestic distribution

14. *Since substances listed in Tables I and II continue to be diverted in significant quantities from domestic trade, to be often subsequently smuggled to neighbouring countries where illicit drugs are manufactured, all countries should introduce or strengthen, as appropriate, control measures for the licit manufacture and/or distribution of such substances.*

6. Transit goods

15. *Countries through which substances listed in Tables I and II transit should consider especially their dual responsibilities in acting both as importing and exporting countries when considering the sharing of information, as described below, as part of global efforts to prevent diversion. A high volume of trade should not be used as an excuse by Governments for not putting in place effective systems of control. In view of the potential for diversion through such countries and territories, they should, as a matter of urgency, introduce adequate controls.*

16. *To facilitate the process, the Governments concerned might wish to examine the steps already taken to enhance control systems by other Governments, confronted with similar*

problems of control, in the same geographic region, and consider adopting similar approaches to preventing diversions.

7. Intermediaries

17. *Applications for export authorizations should identify any intermediaries associated with a given transaction involving substances listed in Tables I and II, as well as the owner of the consignment, and should specify the final destination of that consignment.*

18. *Governments should apply to intermediaries the same control requirements as are applied to other operators handling or using substances listed in Tables I and II. In particular, intermediaries should be subject to registration or licensing requirements, where appropriate; should be required to keep appropriate records; and should face regulatory and penal sanctions if they are found to be facilitating diversions.*

8. Pharmaceutical preparations

19. *Pharmaceutical preparations containing substances listed in the tables of the 1988 Convention are not exempt from control unless they are compounded in such a way that the scheduled substances they contain cannot be easily used or recovered by readily applicable means. Such pharmaceutical preparations, unless specifically excepted, should therefore be controlled accordingly.*

B. Identifying a competent authority responsible for implementation of article 12

20. *Governments should identify the competent authorities, and communicate to the Board their official titles, contact addresses and respective roles in the implementation of article 12 of the 1988 Convention, in accordance with Economic and Social Council resolution 1992/29.*

C. Providing the Board with details of control measures applied by Governments

21. *Governments should inform the Board of the control measures currently applied or envisaged by the various authorities, especially with regard to the import and export of substances listed in Tables I and II of the 1988 Convention.*

22. *Importing countries that require individual import certificates for the import of substances listed in Tables I and II should provide the Board with copies of authentic documents.*

D. Collection of data and their provision to the Board

23. *Data on stopped and suspended shipments should be provided to the Board. Information on methods of diversion and illicit drug manufacture collected should include: specific methods*

of drug production used; capacities of laboratories seized; the identities of the substances used in the illicit manufacture; and the quantities used.

24. *Governments that have not already done so need to establish mechanisms to collect data on the licit manufacture of and trade in substances listed in Tables I and II in order to monitor their movement. As a minimum, Governments should be aware of the companies dealing with such substances, and of the approximate quantities manufactured, exported, imported and used.*

E. Sharing of information on individual transactions

1. Prerequisites

25. *As a prerequisite for any of the actions mentioned below, Governments need to identify the names and contact addresses of the competent authorities responsible for the control of substances listed in Tables I and II, and to share that information with other Governments. They need an established system of data collection to keep track of intended and past exports and imports, and of operators dealing with those substances. At the national level, they also need a mechanism to enable all government agencies concerned with control of the substances to share information. Finally, Governments need a legislative basis for the control of the substances, and details of actual control measures applied need to be shared with other Governments.*

2. First steps

26. *As a first step in verifying the legitimacy of transactions involving Tables I and II substances, Governments should use the “Guideline for use by national authorities in preventing the diversion of precursors and essential chemicals”, which have been distributed to all Governments by UNDCP pursuant to resolution 1993/40 of 27 July 1993 of the Economic and Social Council.*

3. Verification of legitimacy of transactions

27. *Wherever practicable on a regular basis, and especially where there exists a suspicion of the possible diversion of the substance in question or in case of individual transactions involving large quantities of substances listed in Tables I and II, exporting countries should verify the legitimacy of individual transactions either directly with the authorities of the importing country, or through the Board, before releasing the shipment in question. In all such cases, Governments should inform the Board of their actions, even if they have not requested its assistance. Governments should make inquiries even when the mechanisms and procedures for such verification have not yet been institutionalized.*

28. *For that purpose, the authorities in exporting countries should provide their counterparts in importing or transit countries with all relevant details of the planned export before the transaction takes place. Further, they should not authorize exports until the authorities in the*

importing or transit country have indicated that they have no objection to such exports.

29. *Importing countries should respond to inquiries concerning the legitimacy of specific transactions, indicating whether the shipment should be released or stopped. If licit trade is not to be unduly delayed, it is therefore essential that the Governments of importing countries reply in a timely manner to such inquiries. Governments should immediately inform the Board if export orders have been cancelled while they are awaiting a reply from importing countries.*

30. *Similarly, exporting countries which do not receive a reply to their inquiries about individual shipments should inform the Board of this fact.*

31. *If the authorities of the importing country find an element of suspicion in the transaction in question but are not able to complete the investigation in the time requested by the exporting country, they should immediately contact the Government of the exporting country, and the Board, and request that the shipment be suspended pending further investigation.*

32. *In those cases where inquiries about transactions have uncovered suspicious circumstances, the competent authorities should consider not only stopping the export, but also arranging controlled deliveries with their counterparts, in order to facilitate the identification of the site of the illicit manufacture of drugs and the arrest and prosecution of the illicit manufacturers involved. In considering the option of carrying out a controlled delivery, due account should be taken of practical and legal difficulties in doing so, and of the risks involved.*

33. *Countries that have a system of registration or licensing for importers should check whether the importing company indicated in the information sent by the exporting country is registered or licensed. Where no such system is in place, information provided by the exporting country may help the Government of the importing country to establish a list of importing companies.*

34. *In addition, the competent authorities of the importing country should further contact the importing companies to find out whether the consignment in question is to remain in the country, or is intended for re-export. In the latter case, the authorities should contact the next importing country and provide the information described above, as necessary.*

4. Pre-export notifications and follow-up by importing countries

35. *Since Governments of importing countries are not always aware of shipments of scheduled substances destined to their territories, it is essential for Governments of countries that export substances listed in Tables I and II to provide some form of pre-export notification to the competent authorities in importing countries for all transactions involving those substances, regardless of suspicions of possible diversions. For that purpose, Governments of exporting countries should provide such notifications for all substances listed in Tables I and II. To the extent possible, the notifications should be sent on a regular basis, even when no formal*

request under the provisions of the 1988 Convention, article 12, paragraph 10(a), has been received from the importing countries and even if exports appear, prima facie, to be legitimate. They should, as a minimum, provide information on the substance and the importer in question, and on the approximate date of shipment.

36. *In that connection, countries which, under their national laws, already have in place an export authorization system for substances listed in Tables I and II are invited routinely to send a copy of the export authorization to the competent authorities of the importing countries.*

37. The Governments of importing countries receiving pre-export notifications or copies of export authorizations should take immediate action upon receiving such notices to examine whether or not the transactions in question are legitimate, including visits to the companies, especially when a systematic monitoring mechanism has not yet been established. They should then provide feedback to the exporting country. *As with requests to verify the legitimacy of transactions, it is in the interest of the importing country to respond immediately, since there may be a possibility that the competent authorities of the exporting country can then stop an unwanted export before it takes place, or arrange for a controlled delivery.*

38. In case the shipment in question is for re-export, the Government of the transit country or territory should use the above-mentioned guidelines, and, as necessary, send an inquiry concerning the legitimacy of the transaction, or a pre-export notification to the next importing country.

5. General export data and follow-up by importing countries

39. *Countries that export substances listed in Tables I and II should routinely provide at least general information on those exports to the respective importing countries. Such information should include as a minimum the names of the importing companies and export trends.*

40. *Importing countries should provide feedback on the ultimate use and legitimacy of the shipments of which they have been informed by the exporting countries.*

6. System to alert other countries of suspicious shipments and follow-up of such alerts

41. If the verification has established suspicion about the transaction concerned, the competent authorities of the exporting country should, unless controlled deliveries have been arranged, immediately stop the shipment. Acting in concert, the Governments of the exporting and/or importing countries should then provide alerts about such a diversion attempt both to other Governments which in their view might be targeted as points of diversion. Such alerts should be provided also in cases where the exporting country has stopped the shipment without contacting the importing country.

42. If for any reason, the shipment could not be stopped, the authorities of the exporting

countries should provide more details to the importing country to enable it to intercept the shipment in question upon arrival.

43. *Governments should also provide the Board with details of diversion attempts, and suspended or stopped shipments, including the reasons why the shipments were suspended or stopped and the facts that first raised suspicions in the minds of the competent authorities, and indicate whether suspicious circumstances were cleared up afterwards.*

44. *Governments that receive notifications on stopped or suspended shipments involving companies or individuals located in their territories should investigate all cases brought to their attention, and reply to the authorities of the exporting country, informing them whether the suspicion was indeed justified, or whether the investigations have cleared the company. Where suspicions are confirmed, the country should also take appropriate steps against the company or individual in question, in accordance with current national legislation.*

45. *All Governments should alert their counterparts of suspicious attempts to obtain substances used in the illicit manufacture of drugs, wherever necessary through the Board, so that traffickers who have failed to obtain chemicals in one country do not succeed in another.*

46. *All Governments with a mechanism in place to alert neighbouring countries as soon as diversion attempts are identified should extend that mechanism, as appropriate through the Board, to other Governments, since, once identified, traffickers are likely to turn to other countries or regions to obtain the substances used in the illicit manufacture of drugs.*

7. Informing exporting countries of issued import authorizations

47. *Governments of importing countries that have an authorization system in place should provide the names of companies authorized to import substances used in the illicit manufacture of drugs to the competent authorities of the exporting countries.*

48. *In cases where individual import certificates are required, Governments of importing countries should provide copies of the import certificates to the competent authorities of the exporting countries. That should be done as early as possible, preferably when the order is placed with the exporting company.*

8. Role of the Board

49. *The Board stands ready to assist, where necessary and to the extent practicable, in accessing additional information that may be available in databases maintained by Governments or other international and regional organizations. In so doing, the Board will fully exploit its expected role as a gateway for the exchange of information, within the international network of databases and between individual Governments, through direct electronic communication links where these have been established.*

9. Confidentiality

50. *Commercial secrecy should be protected, but should not be allowed to benefit traffickers by becoming an obstacle to preventing diversions.*