

record seizures of illicitly manufactured precursors of ketamine, including nearly 40 tons of an immediate precursor commonly known as “hydroxylimine” (seizures of which had averaged 8 tons a year since 2010) and more than 70 tons of *o*-chlorophenyl cyclopentyl ketone, another intermediate in the synthesis of ketamine (seizures of which had not been reported before). “Hydroxylimine” has been under national control in China since mid-2008; *o*-chlorophenyl cyclopentyl ketone since September 2012.

3. Precursors of other drugs

164. A small amount of 4-methoxy-P-2-P, the non-scheduled equivalent of P-2-P used in the illicit manufacture of *para*-methoxy-*alpha*-methylphenethylamine (PMA) and *para*-methoxymethamphetamine (PMMA), was reported to have been seized in the Netherlands in 2014. The substance was seized in a warehouse, together with other precursors and chemicals, which suggests that a multiple-substance approach was being used.

165. The United States reported on form D for 2014 two incidents involving a total of 20 litres of cyclohexanone, a substance that can be used in the illicit manufacture of phencyclidine and several of its analogues; in the United States, there have occasionally been reports of the dismantling of laboratories used for the illicit manufacture of phencyclidine.

IV. Public-private partnerships: their merits and potential in preventing the diversion of chemicals

166. In its 2014 report on precursors,³³ INCB noted the central role of public-private partnerships and voluntary cooperation with industry in an effective strategy to address chemical diversion and pointed out that those areas needed to receive much greater, systematic attention.

167. Over the past three decades, Governments have adopted and implemented a number of measures in accordance with the 1988 Convention. Those measures have principally focused on preventing substances in Tables I and II of the Convention from being diverted into illicit channels by monitoring their movements in international trade. This has led drug traffickers to change their *modi operandi* to source the chemicals they need for illicit purposes, in particular for illicit drug manufacture. They are increasingly exploiting vulnerabilities in domestic

trade to obtain substances in Tables I and II or non-scheduled substances that can be easily converted into the required precursors. The rapid pace at which those substances are emerging and the almost infinite number of non-scheduled substances that could potentially be used to replace the traditional precursors are among the challenges that many Governments are facing today. Legislative changes provide long-term solutions; however, their enforcement and administration may often be resource-intensive, and in most cases long periods of time are required for their introduction and thus there are limitations in terms of being able to ensure the timely and adequate prevention of the diversion of precursors.

168. This is where the concept of adopting strategies based on voluntary public-private partnerships that supplement the required controls has an increasingly important role to play. The concept is based on shared goals and responsibility and formalized through agreements such as memorandums of understanding, and such strategies provide a number of tangible benefits to both the public sector and the private sector. However, the success of any voluntary mechanism depends on the mutual goodwill, trust and respect of the parties involved. As most of the commercial transactions involving precursor chemicals are legitimate and conducted by bona fide companies as part of their daily business activity, additional legislative controls could potentially place an unnecessary administrative burden on the public and private sectors. The voluntary public-private partnerships, through their speed of response and flexibility, therefore provide effective solutions to address the misuse of non-scheduled chemicals (including “designer” precursors, precursors used to manufacture new psychoactive substances, and off-the-shelf and custom-made chemicals) and the diversion of, and trafficking in, scheduled chemicals at the domestic level.

169. Considering that diversion can and does happen at all stages of the distribution chain, the extent of participation or involvement of private sector stakeholders should not be limited only to manufacturing countries and the chemical industry. Instead, the involvement of all relevant areas of business should be sought, including but not limited to the manufacturing industry, distributors, traders, shippers and end users. The involvement of all relevant sectors of industry should also be sought, including the fine and speciality chemical industries, the pharmaceutical industry and the flavour, fragrance, cosmetics, and food and beverage industries. Thus, all relevant private stakeholders should be engaged in the voluntary framework at the national level. Chemical industry and other associations should also be involved. This will ensure that domestic control and alert systems are able to do what they were designed to do.

³³ E/INCB/2014/4, paras. 21 (a) and 77.

170. Although the concept of cooperation with industry has its roots in article 12, paragraph 9 (a), of the 1988 Convention, which requires parties to establish and maintain a system to monitor international trade in substances in Tables I and II in close cooperation with manufacturers, importers, exporters, wholesalers and retailers, it has not yet been implemented to its full potential. While some Governments have had years of experience and obtained positive results in the form of stopped shipments, others have not yet done so; even in countries with a long history of cooperation with industry, there is room to improve cooperation at lower levels of the distribution chain and in relation to non-scheduled chemicals.

171. Another advantage of public-private partnerships that does not often come to mind is their capacity to manage rogue or intractable players within an industry and address unacceptable activity, i.e. activity not in compliance with the code of practice. In many instances, such an agreed code defining the conditions of manufacture, distribution and use of substances at risk of diversion provides the industry with an effective means of self-regulation.

172. To assist Governments in establishing or improving voluntary cooperative mechanisms with the industries concerned, the Board has made available the following written material, which provides practical guidance and includes the main principles underlying such a concept:³⁴

(a) *Guidelines for a Voluntary Code of Practice for the Chemical Industry* (published in 2009);

(b) “Practical notes for implementing the International Narcotics Control Board guidelines for a voluntary code of practice for the chemical industry” (published in 2015);

(c) “Development and implementation of a Voluntary Code of Practice for the chemical industry formalized through a memorandum of understanding between government and the private sector: Quick guide”, which summarizes the main steps for developing and implementing public-private partnerships and a voluntary code of practice for the chemical industry; and a model memorandum of understanding intended to serve as a basis on which Governments and the chemical industry can develop or enhance voluntary partnerships;

(d) Limited international special surveillance list of non-scheduled substances (published in 1998 and regularly updated by the Board since then).

³⁴ The INCB secretariat will provide the material to competent national authorities upon request; the material is also available on the secure website of the Board.

173. The Board believes that the limited international special surveillance list and similar voluntary monitoring lists are useful tools for proactively addressing the challenges posed by non-scheduled chemicals and substitute chemicals. This applies especially if those lists are expanded in a generic manner — that is, if they go beyond merely listing individual substances and introduce extended definitions that include chemically related substances that can be converted into one of the scheduled precursors by readily applicable means and thus can be used as substitutes for substances in Tables I and II of the 1988 Convention. The chemical industry is well suited to grasping these technical concepts and acting responsibly, as the first line of defence, when it comes to proactively identifying suspicious orders of scheduled and non-scheduled chemicals, notifying regulatory authorities about those orders and thus preventing diversions.

174. To increase the awareness of the merits of voluntary public-private partnership, since 2013 the Board has organized a number of events during which the concept of cooperation between industry and government was discussed in depth and concrete measures and recommendations were adopted.

175. In December 2013, a conference entitled Precursor Control in Asia: Addressing the Challenges was held in Bangkok. Some 100 government officials and experts participated in the conference, discussing ways to further develop cooperation between industry and government, aimed at preventing the use of precursors and other chemicals in illicit drug manufacture. The participants agreed on, among other things, the need to develop practical measures for implementing the INCB *Guidelines for a Voluntary Code of Practice for the Chemical Industry*, as well as codes of conduct and memorandums of understanding.

176. In April 2014, a workshop entitled “Enhancing chemical industry-government cooperation through partnership” was organized by INCB and hosted by the Ministry of the Interior of Bahrain in Manama. The workshop resulted in the adoption of a model memorandum of understanding that can be adapted to specific country needs. The model memorandum of understanding is another part of the written material made available by the Board to provide practical guidance to Governments (see para. 172 above).

177. In April 2015, at the international conference entitled Precursor Chemicals and New Psychoactive Substances, held in Bangkok, a segment of the conference was dedicated to industry-government cooperation. The participants adopted, as part of the outcome document of the

conference, a series of recommendations related to industry-government cooperation. Those recommendations included building relationships with industry to develop and establish voluntary partnerships formalized by the signing of memorandums of understanding, as well as enhancing already existing relationships with chemical industry representatives to improve the reporting and investigation of suspicious orders and enquiries.

178. The Board, in line with its mandate, stands ready to continue supporting Governments in their efforts to establish and implement such memorandums of understanding and similar cooperation agreements and, in cooperation with the private sector, to prevent the diversion of precursors.

V. Conclusions

179. The INCB report on precursors is aimed at providing Governments with a comprehensive overview and analysis of the precursor control situation worldwide, in terms of the extent of licit trade in precursors, latest trends in precursor trafficking, substitute chemicals and action taken by Governments and the Board. It also provides the Board's observations and recommendations on preventing the diversion of chemicals by traffickers and addressing the latest challenges.³⁵

180. It is generally accepted that successes in international precursor control, especially those achieved through PEN Online, the INCB electronic system of pre-export notification, have resulted in decreases in diversions of substances in Tables I and II of the 1988 Convention from international trade. Diversion from domestic distribution channels is now recognized as an important source of those substances. In addition, a range of non-scheduled alternative and substitute chemicals have been used to fill the resulting shortfall in such controlled substances, and many more have the potential to be used as substitutes for such substances.

181. INCB has identified public-private partnerships as one of the most effective measures to address the diversion of both scheduled and non-scheduled alternative chemicals for use in illicit drug manufacture. In chapter IV of the present report, INCB analyses the merits and potential of cooperation between competent authorities and relevant industrial sectors — of all sizes and at all levels; in addition, it invites national authorities to adopt the concept of industry as a critical partner in chemical diversion prevention and to formalize a commitment to such

partnerships, and it invites industry and industry associations to incorporate the principles of chemical diversion prevention into the concept of corporate industry responsibility.

182. Another pillar of effective precursor control in the twenty-first century continues to be the focus on improving national control systems, closing any gaps in those systems and enabling the systems to do what they were meant to do. Lastly, the Board considers it critical for Governments to provide their law enforcement authorities with the legal framework to take appropriate action, where required.³⁶ For their part, law enforcement authorities must pay more attention to precursor chemicals and illicit manufacture; they must investigate seizures, stopped shipments and attempted diversions in order to identify the sources of diversion and the criminal organizations behind those activities and to share their findings with relevant authorities throughout the world, thereby preventing future diversions based on similar *modi operandi*.

183. The present report reconfirms that the extent of information-sharing, especially on alternative and substitute chemicals and the corresponding manufacturing methods, continues to be incomplete or not timely enough. INCB therefore wishes to remind Governments that the sharing of information on any chemical that is suspected of being used or has been used in illicit drug manufacture, or information on attempts to divert a chemical into illicit channels, is critical to understanding — and addressing — new developments in the diversion of precursor chemicals and the use of chemicals in illicit drug manufacture.

184. Pursuant to article 12, paragraph 12, of the 1988 Convention, annual reporting of the following information through form D (part one) is mandatory:

(a) Information on any substances not included in Table I or II that have been identified as having been used or as being intended for use in the illicit manufacture of drugs or precursors;

(b) Methods of diversion and illicit manufacture.

185. To gather the relevant information at the national level and contribute to global efforts to prevent chemicals from reaching clandestine drug manufacturing laboratories, the Board encourages Governments to consider the following action:

(a) Gather in a more systematic manner information on chemicals encountered in dismantled

³⁵ One of the special topics in chapter II of the INCB annual report for 2015 (E/INCB/2015/1) covers new developments and challenges in precursor control and the way forward.

³⁶ The 1988 Convention provides guidance on developing national legislation to that effect for substances in Tables I and II and, in combination with article 13, for non-scheduled chemicals.