

chemical that may be used to disguise smuggled acetic anhydride (Operation Eagle Eye, in 2013 and 2014).

195. Operation Eagle Eye was conducted in two phases: the first phase was collecting information on domestic movements of acetic anhydride and reviewing the legitimacy of domestic commerce in, and end use of, the substance, as well as the bona fides of companies involved, with a view to developing dedicated risk profiles; the second phase consisted of the identification and interdiction of trafficking of acetic anhydride to Afghanistan, inter alia, through the application of the risk profiles developed in the first phase.

196. It is clear from the above-mentioned examples that regulatory controls and trade monitoring cannot be separated from law enforcement action, as one feeds, and benefits from, the other. Precursor control is therefore a continuum which begins with a proper understanding of the legitimate market and the operators in that market, and up-to-date knowledge of trafficking trends and modi operandi, and which extends to the effective use of backtracking investigations, controlled or monitored deliveries, financial investigations, and other enforcement tools. Central to all this is the collection, sharing and utilization of intelligence. The Precursors Task Force, through INCB, operates as the global focal point for the exchange of such information and the coordination of international operational activities that cut across regulatory and law enforcement components of precursor control.

197. Cooperation with industry plays a critical role in the early identification of suspicious inquiries, orders and transactions based on unusual trade patterns or patterns incompatible with the inquirer's business model. The information from such industry alerts, when it is collated at the global level, can help to establish new global trends for the chemicals, including non-scheduled chemicals, in the focus of traffickers at a given time. That information subsequently feeds back into the work of national law enforcement authorities. More than 99.9 per cent of trade in chemicals is legitimate, and a suspicious inquiry may constitute an important piece of intelligence that can help to prevent a chemical from being used in illicit drug manufacture, even if there is not yet any criminal activity involved at that stage.

198. The participants in Project Prism and Project Cohesion also benefit from regular alerts that draw attention to diversion cases or new developments in terms of substances, modi operandi or trafficking trends, including companies involved in suspicious or illicit transactions. INCB facilitates the exchange of such intelligence at the global level, taking the necessary precautions to ensure there is no inappropriate condemnation of industries or countries that may have been the target of traffickers.

199. Since its launch in March 2012, PICS has become an important tool for participating Governments to communicate precursor information in real time with a view to launching joint investigations. As it is able to register users from multiple agencies, PICS also contributes to enhancing inter-agency communication at the national level. INCB also facilitates precursor case meetings between representatives of the countries concerned in order to aid intelligence-sharing and cooperation in backtracking investigations.

200. Based on information available, INCB facilitates international operational cooperation and shares strategic findings globally. This also includes information on legitimate uses, estimated annual legitimate requirements, non-scheduled substances that have been used in illicit manufacture of drugs or precursors, and information gained from stopped shipments and on thefts.

## V. Conclusions

201. The present chapter contains broad conclusions and recommendations to address challenges to, and existing gaps in, the international precursor control system that have implications at the global level. A summary of the more detailed, technical recommendations, a number of which have already been made in previous years and are still valid, is available at the Board's website ([www.incb.org](http://www.incb.org)).

### Levels of international cooperation, communication and information-sharing between Governments and with INCB and the Precursors Task Force

202. Communication with some Governments remains problematic. In some cases, contact information for competent national authorities has never been provided or is outdated, inquiries about potentially suspicious transactions or seizures go unanswered, and the rate of participation and information exchange with INCB and the Precursors Task Force is insufficient. However, there are also encouraging examples of communication, such as when the liaison officers of Task Force members actively engage with the authorities of their host countries in the framework of Project Prism and Project Cohesion. **INCB commends such efforts and encourages all Governments to improve operational cooperation at all levels. INCB also wishes to call on the Precursors Task Force members that are representatives of relevant international and regional organizations, such as**

**INTERPOL, the World Customs Organization and the Inter-American Drug Abuse Control Commission, to re-engage their members in international precursor control activities under Project Prism and Project Cohesion.**

203. The level of detail of information shared about precursor seizures is generally low, which affects not only operational intervention but also INCB analysis of global and regional trends of the chemicals actually being used in illicit drug manufacture, their sources, the diversion methods and *modi operandi* of traffickers, as well as the dynamics of and interlinks between substances in Tables I and II of the 1988 Convention, substances in the limited international special surveillance list, and any non-scheduled substitutes or alternate chemicals.

204. In a number of recent cases, authorities of countries mentioned in PICS incidents have contacted the information provider, or INCB, to obtain further details in order to allow them to initiate investigations in their countries. **Because many precursor seizures have an international dimension beyond the country in which the seizure occurred, any piece of information about the seizure is important as it could be the starting point of an investigation into the source of the chemical and the method of diversion. Governments are therefore encouraged to share all potentially actionable information through PICS or bilaterally, in the framework of Project Prism and Project Cohesion.**<sup>32</sup>

## Operation of the PEN Online system

205. As INCB has previously pointed out, the monitoring of international trade in scheduled substances has played a major role in limiting traffickers' access to those chemicals for illicit purposes. However, there continue to be loopholes, including the fact that some exporting countries do not use PEN Online to notify of exports or do not use the system systematically for all exports.<sup>33</sup>

206. More significantly, a further loophole is posed by the fact the authorities of a number of importing countries and territories which are registered to use PEN Online do not actually review incoming pre-export notifications. As a result,

the authorities of the exporting countries are not in a position to determine whether the importing Government is aware of a planned shipment to its territory and has no objection, or whether it is unaware of the shipment and even unaware of the pre-export notification. This leaves the decision of whether or not a shipment should be authorized solely to the authority of the exporting country, and the importing country is at risk of being the target of traffickers' diversion attempts.

## Integrity of controls on a Government's territory

207. Another issue of concern are territories where conflict, unresolved territorial disputes or other circumstances hinder the exercise of effective governmental control. Such territories are being exploited by traffickers who seek to divert precursor chemicals taking advantage of the vacuum of control.

208. To address some of those concerns, the INCB Precursors Task Force launched Operation Missing Links in October 2016, which seeks to close intelligence gaps with regard to the movement of precursors of methamphetamine and amphetamine (the active ingredient in fake "captagon" tablets) focusing on North Africa and the Middle East. Although the final results were not available at the time of writing this report, the authorities of some countries communicated major incidents involving amphetamine precursors, including in the preparatory phase of the operation that, for the first time, shed some light on the *modi operandi* of the illicit manufacturers and traffickers of "captagon".

209. An increasing number of proposed exports of precursor chemicals is destined for territories whose status is unclear, contested, or, at any given time, not effectively within the scope of control of an internationally recognized entity's competent national authorities. In these cases, exporting authorities will often be unable to pre-notify exports to an officially recognized counterpart, who has both the legal authority and the *de facto* capacity to provide adequate oversight and assurance regarding a shipment's end-purpose or destination. In such areas, there is a substantially increased risk of diversion of chemicals. In order to ensure the availability of controlled chemicals for legitimate purposes in all regions of the world, irrespective of a territory's status, and to manage associated risks, **INCB invites all Governments to work with the Board to devise appropriate ways and means of handling pre-export notifications in such cases with a view to enabling the trade of chemicals to and from high-risk areas in a regulated manner.**

<sup>32</sup> PICS does not provide for the sharing of nominal data. However, it is encouraged that it be indicated whether such data are available.

<sup>33</sup> This also includes consignments in the context of international missions, which are often sent without the knowledge, let alone the authorization, of the receiving Government.

210. Additionally, a frequent lack of sufficient transparency has previously been identified in connection with free trade zones and free ports. **States parties are reminded that pursuant to article 18 of the 1988 Convention, they are obliged to apply control measures in free trade zones and free ports that are no less stringent than those applied in other parts of their territories.**

### National capacity to regulate precursors, monitor their trade and distribution and investigate precursor incidents

211. Insufficient attention to precursors matters within some government authorities may be due to limited national regulatory and enforcement capacity and, often, a lack of institutional memory due to considerable turnover of responsible staff. The lack of capacity is particularly apparent with regard to precursor investigations and in relation to the contributions that customs authorities could make in determining the *modi operandi* used by traffickers, in establishing suitable risk indicators for cross-border precursor trafficking and, ultimately, in generating actionable intelligence.

212. INCB has convened a workshop to that end in August 2016, with a focus on acetic anhydride and countries in West Asia. Chapter IV of the present report also reviews the law enforcement aspect of precursor control in detail, highlighting the growing importance of precursor investigations as the complexity of diversion patterns is increasing, and the value of such investigations as a preventive measure.

213. A framework for international operational cooperation in precursor matters is available, through the mechanisms and operations under Project Prism and Project Cohesion, and through PICS. Both, the thirtieth special session of the General Assembly on the world drug problem of April 2016, in its outcome document, and the Commission on Narcotic Drugs, in its resolution 59/8 of 22 March 2016, recognized the existing framework and encouraged Governments, in accordance with their national legislation, to make full use of the existing tools in order to address the sourcing and movement of, and trafficking in, scheduled and non-scheduled precursors.

### The way forward

214. INCB invites all Governments and international and regional organizations to work with each other and the Board

towards these goals, giving adequate attention to both regulatory and law enforcement aspects of precursor control, including customs-risk profiling, as well as partnerships with relevant sectors of industry as highlighted in the INCB report on precursors for 2015.

215. The present report has a special focus on the enforcement component of precursor control, which is becoming increasingly important because diversions of internationally controlled precursor chemicals from legitimate international trade are detected far less frequently than in the past, trafficking patterns are more complex, often involving domestic diversions with subsequent smuggling across international borders, and licit chemical markets are becoming increasingly diverse, not the least because of an increase in Internet-facilitated trade.

216. Changes in relation to the markets and patterns of trade of substances in Tables I and II are compounded by the emergence of non-scheduled chemicals, including series of related “designer” chemicals and chemicals made on demand, most of which are without legitimate use and/or trade.

217. A balanced mixture of enforcement and regulatory measures is therefore essential. What that right balance is can vary from one country to the next and depend on the particular substance, but the ultimate goal of all efforts must be to deny traffickers the chemicals they require to manufacture substances of abuse, and to cooperate to that end.

218. At present, however, precursors are often not a law enforcement priority. Significant amounts of critical information remain unnoticed or underutilized, and international law enforcement cooperation with respect to precursors is too often hampered by compartmentalization and lengthy or non-existent cooperation procedures. Far too often seizures are considered to be the end result of a law enforcement intervention. Available tools such as backtracking investigations or controlled (monitored) deliveries to identify and disrupt the sources and the criminal groups behind diversions are underutilized.

219. An increasingly large, complex, diversified and rapidly changing market for chemicals challenges authorities to devise solutions that allow for flexibility in enforcement interventions without adding the regulatory burden in the form of systematic international trade monitoring associated with the scheduling of a substance. While adding chemicals to the tables of the 1988 Convention will continue to be important for those chemicals most necessary for illicit drug manufacture, it is clear that effectively denying traffickers access to chemicals will also require active international cooperation on non-scheduled chemicals.

220. INCB has previously advocated that innovative solutions be implemented or tested in some countries, including the application of concepts such as that known as “immediate precursors” and the reversal of the burden of proof for suspicious transactions and stopped or suspended shipments. However, central to all these approaches is a legal framework which makes the supply<sup>34</sup> of any chemical for illicit purposes a crime, thus enabling law enforcement authorities to take action, exchange intelligence and cooperate across borders.

221. Article 12 of the 1988 Convention and relevant resolutions provide the fundamental framework for international cooperation to prevent chemicals from reaching clandestine laboratories and, subsequently, preventing illicitly manufactured drugs and new psychoactive substances from reaching consumer markets. INCB therefore considers precursor control to be an effective form of prevention of serious illicit activity, which deserves to be given much higher priority by Governments. INCB invites all Governments to cooperate and participate in the Board’s initiatives to this end.

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<sup>34</sup> Supply in this context refers to actions that lead to chemicals being available for illicit purposes (manufacture, acquisition and trafficking).