

IV. Article 13 of the 1988 Convention as a complementary tool in addressing illicit drug manufacture

229. The clandestine manufacture of narcotic drugs and psychotropic substances, new psychoactive substances and precursors is not possible without the input of chemicals, materials and equipment. While the control of chemicals has long been a focus of the authorities worldwide, pursuant to the provisions in article 12 of the 1988 Convention, much less attention has been given to equipment and materials and article 13 of that Convention, which provides a basis for international action and cooperation in such control efforts (see box 5).

230. Concern about the use of equipment, including tableting machines, specialized glassware and other essential laboratory equipment, in illicit drug manufacture is not new, but the spread of fentanyl-related substances and other synthetic opioids, with their often high potency and their role in fatal overdose cases in some parts of the world, has raised new concerns among Governments and the Board.

231. As early as 1998, the General Assembly specifically requested national authorities to monitor sales of laboratory equipment, pursuant to article 13 of the 1988 Convention.³⁶ In 2002 and 2003, the Equipment Working Group of Project Prism convened two meetings in The Hague, Netherlands, and Bangkok to discuss the matter. As a tangible result, in 2004, the Europol Illicit Laboratory Comparison System was established. In 2010, the Inter-American Drug Control Commission developed a concept paper on the regulation of equipment used in the illicit manufacture of synthetic drugs. Calls to initiate equipment monitoring and investigations into seizures and cases of diversion or smuggling of essential equipment have since been made on several occasions, most recently in March 2019, by the Commission on Narcotic Drugs in its resolution 62/4.

232. The resolution calls on Governments to increase the operational use of article 13 and take appropriate measures to prevent trade in and the diversion of equipment used in

³⁶See General Assembly resolution S-20/4, which sets out the Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and Their Precursors.

Box 5. Article 13 of the 1988 Convention

Article 13 of the 1988 Convention requires the parties to take such measures as they deem appropriate to prevent trade in and the diversion of materials and equipment for the illicit production or manufacture of narcotic drugs and psychotropic substances and to cooperate to this end.

Read together with article 3, paragraph 1, subparagraph (a) (iv), of the 1988 Convention, article 13 makes it mandatory for parties to establish as criminal offences under domestic law, when committed intentionally, the manufacture, transport or distribution of equipment.^a These provisions relate not only to equipment used for illicit laboratories within a party's territory, but also to equipment that is smuggled out of or exported from the party's territory to other countries and used in illicit laboratories in those countries (see also para. 13.3 of the Commentary on the 1988 Convention).

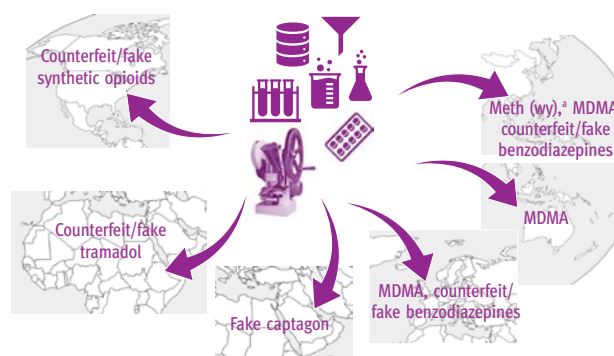
^aThese provisions are extended to the possession of equipment (art. 3, para. 1, subpara. (c) (ii)). Article 3, paragraph 1, subparagraphs (a) (v) and (c) (iv) further extend the provisions on criminalization to the organization, management or financing of any of these offences, and to participation in, association or conspiracy to commit, attempts to commit, and facilitating the commission of any of the offences established in accordance with article 3.

illicit drug manufacture by enacting national legislation to implement that article. The resolution also encourages INCB to provide guidelines on the most effective ways to prevent the diversion of materials and equipment in the context of article 13.

233. In order to get an overview of the nature and extent of equipment-related incidents worldwide, with a view to subsequently prioritizing global approaches to countering the supply of equipment for illicit purposes, the INCB Precursors Task Force coordinated a global survey among focal points for Project Prism, Project Cohesion and Project Ion in 2018. The 40 responses received suggested that most reported incidents were seizures (not suspicious transactions) that typically involved commercially produced (not custom-made) equipment, and that the seized equipment was mostly new (not second-hand). The survey also showed that few countries have in place any regulations, monitoring requirements or cooperation arrangements with industry for reporting suspicious transactions in international trade or domestic distribution. Similarly, few countries had ever done any equipment-related backtracking investigations, nor did they have the capacity to do so.

234. In terms of prioritizing essential equipment, the survey results suggested that it might be useful to focus initially on tableting and encapsulating machines and related punches and dies, the use of which in illicit drug manufacture is a global problem with regional differences (see figure XIV).

Figure XIV. Schematic overview of illicitly manufactured tablets, by drug and region

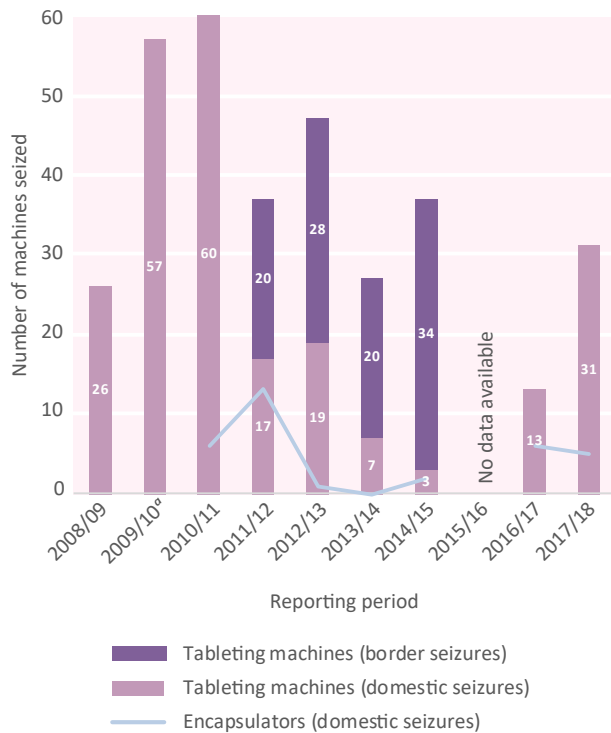


^aIllicitly manufactured methamphetamine tablets in South-East Asia are typically imprinted with the code “wy”.

Note: Arrows are illustrative and do not represent flows of substances, equipment or materials to any specific country.

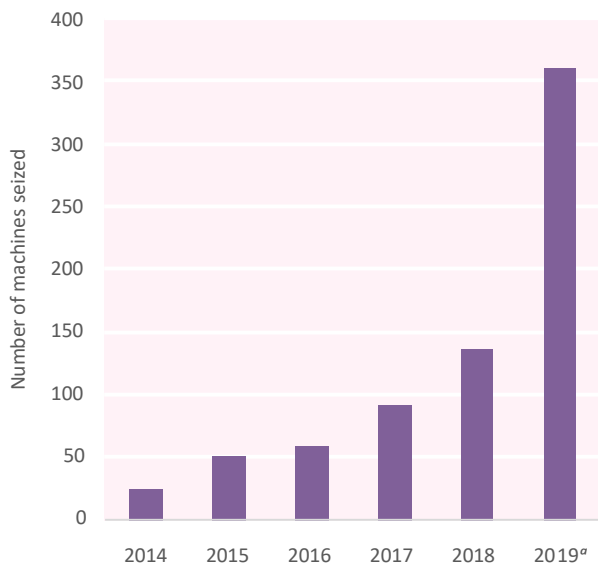
235. Statistics about seizures of essential equipment are not generally available. Where they are, such as in Australia and the United States, they focus on tableting and encapsulating machines, and have indicated an increase in seizures in recent years (see figures XV and XVI).

Figure XV. Seizures of tableting machines in Australia, 2008–2018



Source: Australian Criminal Intelligence Commission, *Illicit Drug Data Report, 2016–17* and reports from previous years.
^aOn 1 March 2010, tableting machines became a prohibited import in accordance with the Customs (Prohibited Imports) Regulations 1956 of Australia.

Figure XVI. Seizures of tableting machines by the United States Customs and Border Protection, 2014–2019



^aUp to and including August 2019; data may also include seizures of punches and dies. Years are fiscal years.

236. The Board believes that article 13 is a valuable complementary tool in addressing illicit drug manufacture. However, it is currently underutilized. To assist Governments in increasing the use of article 13 and preventing specialized equipment from reaching illicit laboratories, the Board conducted the following activities in 2019:

- (a) The convening of an expert group meeting on the matter with a view to developing mechanisms and concrete operational activities to prevent and investigate the diversion of specialized equipment for illicit purposes in the context of article 13 of the 1988 Convention;
- (b) The launch of an intelligence-gathering activity related to tableting and encapsulating machines;
- (c) The establishment of a web-based repository of existing national approaches to the implementation of article of the 1988 Convention at the national level;
- (d) The preparation of practical guidelines on the implementation of article 13, pursuant to Commission on Narcotic Drugs resolution 62/4; the guidelines were to be launched at the sixty-third session of the Commission, in March 2020;

(e) A number of measures to enhance international cooperation in equipment-related cases, including promoting the use of PICS for the exchange of intelligence and information about equipment incidents;

(f) Partnerships with relevant entities, such as the World Customs Organization, to establish harmonized system codes for essential equipment, and Europol, to explore synergies between PICS and the Europol Illicit Laboratory Comparison System for global benefit.

237. Building on the activities initiated in 2019, the Board encourages Governments to consider taking the following actions:

- (a) Raise the awareness of competent authorities, industries and related sectors about the risk of various types of equipment being utilized for the illicit manufacture of drugs by improving the understanding of the use of such equipment and the related diversion methods;
- (b) Initiate investigations into seizures and cases involving the diversion or smuggling of essential equipment, with a view to tracking it back to the source in order to prevent continued illicit activity, and communicate the details of those seizures and backtracking investigations in real time, preferably through PICS.

238. The Board looks forward to enhanced global cooperation among Governments and between Governments and INCB in the context of article 13 and stands ready to support Governments to that end.