

IX. Challenges

102. The conventions have proved especially effective at curbing the diversion of licit international commerce in drugs into illicit channels. Through the estimates system provided for under the 1961 Convention and the assessments system of the 1971 Conventions, the Board, working with States parties, has overseen a systematic management of international commerce in these important products which are also subject to abuse. Nonetheless, challenges to the system remain, and the Board would like to underline some of those challenges that must be addressed in order to achieve the goals and objectives of the conventions.

Illicit cultivations

103. Despite some success in some regions in the past 60 years, the illicit cultivation of opium poppy (240,800 ha in 2019) and of coca bush (244,200 ha in 2018) and trafficking in drugs continue to be a threat to political, economic and social stability in a number of countries where corruption also seriously hinders drug control efforts and should be addressed if progress is to be made. Preventing the diversion of controlled precursors that can be used for the production of heroin and cocaine remains a serious challenge for the international community. Furthermore, the illicit cultivation of the cannabis plant continues to take place in many countries and must be adequately addressed at the national and international levels.

Drug use prevention and treatment services

104. Demand for illicit drugs continues to be high throughout the world. Measures in demand reduction must be further strengthened at the national and international levels. There is still a considerable imbalance between law enforcement measures and drug prevention and treatment interventions, with an artificial separation of public health objectives and security objectives in drug control policies.

105. To enhance the health and welfare of humankind, the conventions mandate States parties to take measures for the treatment, rehabilitation and social reintegration of people affected by drug problems (art. 38 of the 1961 Convention and art. 20 of the 1971 Convention), but many Governments have not yet given priority to this issue owing to a lack of capacity and resources, in particular in the area of treatment of drug addiction. States should look at the approaches that are most successful and avoid those that have no demonstrated effectiveness.

106. In many parts of the world, prevention initiatives are insufficient or lacking, the provision of treatment is poor, and there are insufficient mechanisms to combat stigma and foster social reintegration. In addition, stigma is exacerbated by a disproportionate and often unnecessary recourse to criminal law approaches to deal with drug users, which is inconsistent with the principle of proportionality.

107. Treatment of drug use disorders, rehabilitation and social reintegration are among the key operational objectives given in the recommendations on drug demand reduction contained in the outcome document of the thirtieth special session of the General Assembly, entitled “Our joint commitment to effectively addressing and countering the world drug problem”. In the outcome document, the Assembly recognized drug dependence as a complex health disorder characterized by a chronic and relapsing nature that can be treated through evidence-based and voluntary treatment programmes, and called for enhanced international cooperation in developing and implementing treatment initiatives.

Availability of internationally controlled substances for medical and scientific purposes

108. A core objective of the international drug control system is to ensure the availability of internationally controlled substances for medical purposes and to

promote the rational use of such substances. This goal is still far from being universally met. People are still suffering and have no access to these medications; this ranges from those who have to undergo surgery without anaesthesia to those without access to the medication required for mental health conditions and to those who are dying in unnecessary pain. The imbalance in the availability of and access to opioid analgesics throughout the world is particularly troublesome. Many of the conditions requiring pain management, including cancer, are prevalent worldwide, and their prevalence is increasing in low- and middle-income countries; the medicines and knowledge to alleviate the situation exist, and those medicines are affordable, but they are not available or appropriately used in these countries owing to a range of health system and regulatory barriers.

109. At the same time, in a number of countries, especially in North America, the overprescription of opioid analgesics, together with the use of illicit opioids, has created a public health crisis, causing over 60,000 overdose deaths each year in recent years. There are signs that other countries are starting to experience similar problems, and it is critically important for countries and the international drug control system to work together to prevent this opioid pandemic from further spreading to other countries.

110. While the lack of access to opioid analgesics has been the focus of much attention, the data related to the availability of and access to psychotropic substances also show considerable disparities among countries and regions of the world. In addition to the inadequate availability of and poor access to necessary medical treatments in some regions, recent studies on the use of benzodiazepines in some countries also point to an oversupply of such substances relative to medical needs, contributing to heightened risks of diversion and giving rise to significant challenges to their control.

111. Ensuring the adequate availability of and access to internationally controlled substances for medical and scientific purposes while preventing their abuse, diversion and trafficking are functions of the international drug control system as established by the international drug control conventions. The recommendations contained in the outcome document of the thirtieth special session of the General Assembly and in the supplement to the INCB annual report for 2015¹⁸ need to be put into action at the national and international levels in order to improve the availability of these controlled medicines.

New psychoactive substances

112. The continuing emergence of a large number of new psychoactive substances on the global drug market poses a significant risk to public health and a challenge to the implementation of control measures. The use of new psychoactive substances is often linked to health problems leading to hospitalizations and overdose deaths. Significant challenges remain in ensuring adequate control of new psychoactive substances at the national and international levels. Especially in recent decades, the notion of source, transit, and destination countries has begun to lose its salience as drugs are trafficked creatively through multiple destinations. Chemists supporting traffickers have become increasingly creative, moving up the chemical synthesis chain so that they can manufacture controlled chemicals and precursors through easily purchased reagents.

113. As national control is expanded to cover more new psychoactive substances, there is an increased risk of legitimate business-to-business trading platforms being used for the sale and purchase of substances under national control. While misuse of legitimate platforms for illicit purposes needs to be prevented, hindering the development of legitimate economic activities through the Internet needs to be avoided. The Board encourages and supports Governments through its special projects to consider and put in place appropriate measures, in accordance with national law, to monitor and act on attempts to trade in new psychoactive substances through online trading platforms, including, possibly, voluntary monitoring and information-sharing, and to consider involving the operators of trading platforms.

Proliferation of non-scheduled chemicals, including designer precursors

114. Together with the emergence of new psychoactive substances, the Board has for several years drawn attention to the challenges that the proliferation of non-scheduled chemicals, in particular designer precursors, pose to international drug control efforts.

115. In a number of countries, the effective control of precursors continues to be impeded by inadequate precursor control legislation, weak monitoring and control mechanisms and the lack of timely responses to pre-export notifications and to inquiries about the legitimacy of shipments of precursors. In most parts of the world, traffickers are increasingly trying to obtain large amounts of pharmaceutical preparations containing ephedrine and pseudoephedrine from licit national and international trade.

¹⁸E/INCB/2015/1/Supp.1.

116. The Board presented these challenges to the Commission on Narcotic Drugs in 2020 and considers that the Member States need to continue and systematize the policy dialogue on the review of substances for possible scheduling recommendations. They may wish to consider new internationally binding measures, as well as voluntary cooperation approaches, and explore options for innovative scheduling action within the framework of the 1988 Convention.

Medical and non-medical cannabis use

117. The medical use of cannabis and cannabinoids is allowed under the international drug control treaties only if States comply with the treaty requirements that are designed to prevent diversion to non-medical use. The treaties require that States license and control cannabis production for medical use, provide estimates of the national requirements for cannabis for medical purposes and ensure that medicinal cannabinoids are used in accordance with evidence on their safety and effectiveness and under medical supervision.

118. Governments that allow the medicinal use of cannabinoids should monitor and evaluate the effects of those programmes. Such monitoring should include collecting data on the number of patients who use cannabinoids, the medical conditions for which they use them, patient and clinician assessments of their benefits and rates of adverse events. Governments should also monitor the extent of diversion of cannabinoids to non-medical use, in particular their diversion for use by minors. The Board notes that, while a number of medicinal products containing cannabinoids have been licensed in a number of countries for medical use in the treatment of specific conditions, cannabis and its derivatives are not a first-line treatment for medical conditions.

119. Also, the universal adherence to the three international drug control treaties and the commitment to their implementation reaffirmed by Member States at the thirtieth special session of the General Assembly on the world drug problem, held in 2016, are undermined by the developments in a few countries that have legalized or permitted the use of cannabis for non-medical purposes or that have tolerated its legalization at the sub-national level.

120. Any increases in non-medical cannabis use will increase the adverse effects of cannabis on public health. The most likely effects are increased rates of motor vehicle injuries, cannabis dependence and abuse, psychoses and other mental disorders, and poor psychosocial outcomes in adolescents.

121. The drug control conventions, as they were negotiated and agreed by the international community, “limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs”. This limitation is defined as a general obligation within the 1961 Convention and the 1971 Convention and leaves no room for derogation of any nature. In the past few years, the restriction of use to medical and scientific purposes has been challenged through the adoption by some States of legal frameworks for the legalization and regulation of cannabis for non-medical use. As the body responsible for monitoring compliance with the three international drug control conventions, INCB has cautioned that these measures are fundamentally inconsistent with the obligations of States parties to the drug control conventions and constitute a serious violation of the conventions. Irrespective of the justifications advanced by the States in question, of their expressed commitment to the “general objectives” of the drug control conventions and of whether these initiatives are characterized as “experiments”, it remains that the legalization and regulation of controlled substances for non-medical purposes is a clear violation of the international drug control legal framework and undermines respect for the agreed international legal order.

The Internet

122. The Internet has permeated every aspect of people’s lives in recent years, and that includes matters of drug control. Although the Internet and social media offer new ways to deliver preventive education, they have also created increased opportunities for both the marketing and the social transmission of risky products and behaviour and have thus contributed to an increased exposure to substance use by normalizing use and presenting users’ experiences in a positive light.

123. The Internet has also made it possible to buy medicines online, including those containing internationally controlled drugs. Unfortunately, the online sale of medicines is sometimes conducted illegally, since some Internet pharmacies operate without licences or registration and dispense pharmaceutical preparations containing narcotic drugs and psychotropic substances without requiring a prescription. Numerous non-medical synthetic opioids have emerged on global markets, and some such as fentanyl analogues are particularly dangerous substances when abused due to their high potency even in extremely small doses.

124. The global trend of purchasing drugs over the Internet, in particular on darknet trading platforms using cryptocurrencies, has spread to several regions. Vendors

use the open Internet, the darknet and social media sites to market a wide range of fentanyl, with purchases made using online financial services or cryptocurrencies. Purchases are shipped among the billions of letters and express parcels shipped around the world every year using international mail and express courier services. Because of the high potency of the substances, the transport of fentanyl in trace amounts makes detection and interdiction extremely challenging. Postal, express mail and express courier service staff and customs officers unwittingly handle these potentially dangerous substances, raising safety concerns relating to potential contamination and harm through unintentional exposure. Chemical precursors that are frequently used in the illicit manufacture of narcotic drugs and psychotropic substances are also traded online.

125. The continued growth of Internet access around the world, the widespread availability of online communication channels and the vastness of the deep web (the part of the Internet that is not accessible to search engines) all contribute to making drug trafficking over the Internet, whether through illegal Internet pharmacies or by other means, a significant crime threat. In that connection, the Board calls on Governments to continue to use the *Guidelines for Governments on Preventing the Illegal Sale of Internationally Controlled Substances through the Internet*,¹⁹ published pursuant to the recommendation expressed in the outcome document of the thirtieth special session of the General Assembly.

Human rights

126. Over the years, many gross human rights violations have been committed in the name of or under the guise of drug control. These human rights violations have occurred not because of the drug control conventions but in spite of them. If drug control measures adopted by States violate internationally recognized human rights, they also violate the international drug control conventions. Human rights are inalienable. The health and welfare of humankind, which is the goal of the international drug control conventions, can only be interpreted as including the full enjoyment of human rights. Any State action which violates human rights in the name of drug control policy, whatever its objective may be, is fundamentally inconsistent with the international drug control conventions.

127. States parties have achieved varying levels of progress in the adoption of drug control policies that are consistent with international human rights law. The Board will continue to highlight the importance of respect for human rights and fundamental freedoms in the implementation of international drug control conventions and invites all States to seize the opportunity provided by the anniversaries of the two international drug control conventions to reflect and act on this important issue.

¹⁹United Nations publication, Sales No. E.09.XI.6.