

Chapter IV.

Conclusions and recommendations to Governments, the United Nations and other relevant international and national organizations

936. Following its review of the implementation of the international drug control conventions, the Board would like to present to Governments and relevant international and regional organizations its main conclusions and recommendations, which are set out below.

Analysis of the trend of legalizing the use of cannabis for non-medical purposes

937. Over the last decade, a growing number of States have pursued policies that allow and regulate the use of drugs, in particular cannabis, for non-medical and non-scientific purposes. Permitting and regulating the production, manufacture and distribution of, trade in and use and possession of drugs for purposes other than medical or scientific purposes is commonly referred to as “legalization” and the creation of a “regulated market”.

938. The trend of allowing the use of drugs for non-medical and non-scientific purposes constitutes a significant challenge for the international community, namely for the States parties to the international drug control conventions. The apparent tension between the provision contained in article 4 (c) of the 1961 Convention as amended and the growing trend towards legalization must be addressed by the signatories to the three drug control conventions.

939. Instead of legalizing the use of drugs for non-medical purposes, Governments may make more effective use of the

flexibilities contained in the conventions. They should, in order to protect public health and youth, establish better education, prevention and treatment programmes. They should fight organized crime through effective social crime prevention and law enforcement action. Governments may choose the alternative sanctions to conviction and punishment provided for in the three conventions in order to avoid or reduce stigmatization caused by criminalization and incarceration. By applying alternative sanctions and the principle of proportionality, Governments can also reduce the burden on their criminal justice systems.

940. It is difficult to measure the impact of legalization on public health, public safety and the economy. It can be observed that, in the relatively short time since implementation, legalization has not succeeded in overcoming the most pressing problems, such as increased consumption rates, the criminalization of too many people using drugs, the growing illicit market and expanding organized crime. In jurisdictions that have legalized cannabis, consumption remains higher than in those jurisdictions that have not, and prevalence seems to increase more rapidly than in communities that have not legalized cannabis, with noticeable health and social consequences. Legalization has not been able to dissuade youth from consuming cannabis. Illicit markets have been partly reduced, but they persist and flourish. Drug trafficking by organized criminal groups has been partially replaced by an expanding legal cannabis industry that aims to make profits by increasing sales. In general terms, one can ascertain that the legalizing jurisdictions did not achieve all the goals they had pursued through legalization.

941. Legalization also raises concerns with respect to public health, in particular when cannabis products are advertised in a way that appeals to children or attracts youth. This is linked to a decreasing perception of the risks of cannabis use. The high potency of cannabis products such as concentrates and edibles also raises public health concerns.

942. **INCB underscores that measures to permit the use of controlled substances including cannabis for non-medical and non-scientific purposes are inconsistent with article 4, paragraph (c), of the 1961 Convention as amended, which requires States parties to take such legislative and administrative measures as may be necessary, subject to the provisions of the 1961 Convention as amended, to limit the use of narcotic drugs exclusively to medical and scientific purposes. Article 3, paragraph 1 (a)(i), of the 1988 Convention requires the criminalization of the production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention as amended or the 1971 Convention. Article 3, paragraph 1 (a)(ii), of the 1988 Convention requires the criminalization of the cultivation of cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention as amended.**

Universal adherence to the international drug control conventions

943. The three international drug control conventions represent the international consensus on requirements for the control of licit trade in narcotic drugs, psychotropic substances and precursor chemicals that can be diverted, and on the measures needed to facilitate access to and the availability of controlled substances for legitimate medical and scientific purposes. By becoming parties to the international drug control conventions, States commit themselves to taking the legislative, regulatory and policy measures necessary to ensure the full implementation of their legal obligations in their national systems. The conventions also provide a common normative framework for effective international drug control, in particular in their capacity as the legal basis for international cooperation, extradition and mutual legal assistance.

Recommendation 1: Recognizing that concerted action in the spirit of common and shared responsibility is essential to the success of the international community's drug control efforts, the Board reiterates its call to all States that have not yet become parties to one or more of the

international drug control conventions to do so at the earliest opportunity and to take all legislative and policy action necessary to ensure the comprehensive implementation of the conventions at the national level.

International drug control conventions and human rights

944. The fundamental goal of the international drug control conventions, to safeguard the health and welfare of humanity, requires fully respecting and protecting human rights. All drug control policies and actions should be adopted in line with international human rights obligations, including promoting equality and non-discrimination towards people who use drugs. Any actions that violate human rights in the name of drug control policy are inconsistent with the international drug control conventions.

Recommendation 2: The Board continues to reiterate that any extrajudicial action purportedly taken in pursuit of drug control objectives is fundamentally contrary to the provisions and objectives of the three international drug control conventions, as well as to human rights norms to which all countries are bound; that all drug control actions by States should be undertaken in full respect of the rule of law and due process of law; and that violations by law enforcement personnel should be impartially and independently investigated and prosecuted and punished as appropriate.

945. The Board notes with concern public reports of the continued use of the death penalty for drug-related offences in a number of countries.

Recommendation 3: While recalling that according to the international drug control conventions, the determination of penalties applicable to drug-related behaviours remains the exclusive prerogative of States parties, the Board encourages all States that retain the death penalty for drug-related offences to commute death sentences that have already been handed down and to consider the abolition of the death penalty for drug-related offences in view of the relevant international conventions and protocols and relevant resolutions of the General Assembly, the Economic and Social Council and other United Nations bodies on the application of the death penalty for the category of drug-related offences.

Prevention and treatment

946. Over the past decade, the international community has highlighted the need for the voluntary treatment of

people who use drugs, adopting health- and people-centred approaches that incorporate human rights concerns. However, many countries still lack mechanisms for gathering information on the scope and nature of drug use and treatment demand. That hinders the ability to determine the scope and consequences of drug use. It also hinders Governments and the international community as they seek to respond effectively through evidence-based drug use prevention and treatment programmes.

Recommendation 4: The Board encourages countries to develop and strengthen systems for the collection of data on drug use trends and treatment demand in order to inform the development of evidence-based approaches in the area of prevention and treatment and encourages bilateral partners and regional and international organizations to provide support to that end.

Recommendation 5: The Board encourages countries to reduce the stigma associated with drug use disorders and to continue to implement programmes to prevent drug use and to provide evidence-based treatment, rehabilitation and social reintegration programmes.

Recommendation 6: The Board wishes to encourage the international community, including OAS, UNODC, WHO and PAHO and partner countries, to work or continue to work with Governments to strengthen their regulatory frameworks and their provision of public health services in drug use prevention, treatment, rehabilitation and social reintegration, in particular for countries with lower institutional capacities and financial resources.

Promoting equality and non-discrimination towards people who use drugs in access to prevention, treatment and rehabilitation programmes

947. Given that persons who use drugs continue to be subject to discrimination and stigmatization, the Board calls upon States parties to ensure that their national legislation, policies and implementing practices do not discriminate unjustly on the grounds of drug use or drug dependence, in particular in the criminal justice system, and that they offer protection against discrimination by third parties. The Board calls upon States parties to the international drug control conventions to avail themselves of the possibility, provided for in those conventions, of applying alternative measures to conviction or punishment for minor offences, in particular if those offences have been committed by persons who use drugs.

Recommendation 7: The Board encourages all States parties to the international drug control conventions to take all necessary measures to ensure that in the elaboration and implementation of national drug control policies and drug use prevention policies, due consideration is given to the need to develop policies that are evidence-based, developed with the input and participation of persons who use drugs, culturally appropriate, accessible to all, administered in a manner free from discrimination and stigmatization and adapted to cultural and socioeconomic realities.

Ongoing large-scale opium poppy cultivation and opium production in Afghanistan

948. The Board remains extremely concerned about reports of ongoing large-scale opium poppy cultivation and opium production in Afghanistan despite the announcement by the de facto authorities of a ban on the cultivation of opium poppy as well as the banning of the production, usage, transportation, trade, export and import of all other drugs in the country. The Board acknowledges that for such a ban to have meaningful impact on the drug situation in the country, comprehensive efforts must be undertaken to support alternative livelihoods for those involved in cultivation and production, as well as a range of other measures to strengthen drug use prevention actions for all sectors of society and control and enforcement capacities. The Board also notes that the current political and socioeconomic challenges faced by the people of Afghanistan, further exacerbated by the environmental and humanitarian emergencies in the country, create further obstacles to effective drug control.

Recommendation 8: The Board calls upon the international community to continue to support drug control efforts in Afghanistan to protect public health, including for women, as an important component of delivering development assistance to the country.

The growing threat posed by a surge in illicit cocaine manufacture and trafficking

949. The Board is concerned about the growing threat posed by a surge in coca bush cultivation and illicit cocaine manufacture and trafficking. Recent developments in the criminal landscape in the major regions associated with coca bush cultivation and illicit cocaine manufacture have

resulted in specialization in the cocaine supply chain and the forging of new alliances among drug trafficking operators. This has led to an increase in coca bush cultivation, the manufacture of an increased quantity of cocaine with high purity using specific precursor chemicals, and the use of new trafficking routes and methods. All this has resulted in the availability of larger quantities of a purer product at cheaper prices for consumers.

Recommendation 9: The Board wishes to encourage Governments to further develop a coordinated response at the international level that targets each element of the cocaine supply chain – cultivation, manufacture, trafficking and distribution – in addition to disrupting the related financial flows. Governments are encouraged to make use of various INCB tools and guidance documents, including those related to precursor chemicals, containing recommendations for action at the national and international levels, to disrupt the burgeoning manufacture and trafficking of cocaine.

Public-private partnerships in the area of drug precursors, non-scheduled chemicals and dangerous substances

950. Rapidly changing trends in trafficking, including the use of newly emerging designer precursors or other chemicals not under international control for illicit drug manufacture, together with new methods and routes of diversion, pose a global challenge and require rapid proactive responses from authorities. This is where the engagement with the private sector has proved to be an invaluable supplement to regulatory frameworks, given the flexibility of industry partners in adjusting quickly to changing circumstances. The concept as such is an integral part of the provisions of the 1988 Convention, in particular, article 12, paragraph 9 (a). Over the years, public-private partnerships have demonstrated their potential in addressing the challenges in international precursor control and are now a key component of an effective, reliable and sustainable mechanism for addressing the diversion of controlled precursors, non-scheduled chemicals and dangerous substances and for preventing them from reaching illicit laboratories and markets.

Recommendation 10: The Board wishes to encourage Governments to continue their efforts to establish and implement industry-related initiatives with a view to addressing the diversion of chemicals, non-scheduled chemicals and dangerous substances and preventing them from reaching illicit laboratories and markets. The Board also wishes to encourage Governments to utilize the tools and resources available to competent national authorities.

Use of electronic import and export authorizations for trade in internationally controlled narcotic drugs and psychotropic substances

951. The use of import and export authorizations for trade in internationally controlled narcotic drugs and psychotropic substances is a key pillar of the international drug control system. This system ensures proper oversight by competent national authorities, customs services and other authorities to prevent the diversion of those substances from licit trade into illicit channels. The framework, laid out in article 31 of the 1961 Convention as amended and article 12 of the 1971 Convention, has evolved pursuant to several resolutions of the Economic and Social Council and the Commission on Narcotic Drugs. This has led to the creation of I2ES, a web-based tool allowing Governments to securely exchange import and export authorizations for trade in narcotic drugs and psychotropic substances.

Recommendation 11: The Board recommends that Governments wishing to use electronic import and export authorizations for trade in internationally controlled substances should adopt the I2ES system, the only system endorsed by the Commission on Narcotic Drugs for the issuance and exchange of electronic import and export authorizations for such trade.

Recommendation 12: The Board wishes to emphasize that Governments implementing their own national systems for the issuance and exchange of electronic import and export authorizations for trade in internationally controlled substances must ensure that their systems are in conformity with the 1961 Convention as amended and the 1971 Convention, as well as the relevant resolutions of the Commission on Narcotic Drugs. In addition, Governments implementing their own national systems should make every effort to communicate with their trading partners and make them aware of the validity and functions of those systems.

Responsibilities of transit countries in the licit trade in internationally controlled substances

952. Cooperation between the authorities of the importing, exporting and transit countries is critical to ensuring rapid and efficient legitimate trade in internationally controlled substances and ensuring that medicines reach patients in a timely manner and that chemicals are available for industrial uses.

Recommendation 13: The Board wishes to remind Governments of their obligations under the international drug control treaties and the relevant resolutions of the General Assembly, the Economic and Social Council and the Commission on Narcotic Drugs to ensure the safe and secure trade in internationally controlled substances when shipments of such substances transit their territory.

Collecting and reporting of data

953. Accurate, complete and timely reporting by Governments to INCB is vital for the monitoring system as stipulated by the international drug control treaties. Collecting quality data is crucial for the reliable analysis of trends, in particular in the most affected countries.

Recommendation 14: The Board urges Governments to continue to strengthen their national mechanisms to monitor the cultivation, production and manufacture of and trade in controlled substances and to provide comprehensive accurate data required under the three drug control conventions to the Board in a timely manner.

Recommendation 15: The Board urges Governments to develop national systems for the collection of data on drug use patterns.

Recommendation 16: The Board encourages all States to strengthen their drug trafficking interdiction efforts and subsequently make available all information and data related to their efforts to counter drug trafficking, in particular seizure data, to United Nations bodies, including INCB and UNODC, as well as other relevant stakeholders.

Recommendation 17: The Board also encourages donor States to include information collection and analysis programmes as part of their assistance programmes.

Recommendation 18: The Board reiterates the critical importance of the quality, comprehensiveness and timeliness of data on narcotic drugs, psychotropic substances and precursors for meaningful analyses, the identification of new developments and action to address weaknesses in control systems.

Narcotic drugs

954. The Board, having reviewed the latest information and data on the supply of opiate raw materials and demand for opiates for medical and scientific purposes, points out that although data from producing and manufacturing countries indicate that the supply of both morphine-rich

and thebaine-rich opiate raw material is calculated to be sufficient to cover the demand for medical and scientific purposes as expressed by countries, there are significant disparities between countries in the availability of narcotic drugs because many countries do not accurately estimate their medical needs for opiate analgesics or have only limited access to them.

Recommendation 19: The Board emphasizes the importance of ensuring sufficient availability at the global level and urges opioid manufacturing countries to devote an increasing amount of morphine to be utilized for the production of immediate release oral morphine preparations to be used for the treatment of pain, in particular in low- and middle-income countries.

Recommendation 20: The Board also reiterates that there is an urgent need to increase the availability of and access to opioids analgesics and to improve their prescription and use in all countries reporting inadequate or very inadequate levels of consumption, and calls for targeted public policies supported by Governments, health systems and health professionals, civil society, the pharmaceutical industry and the international community.

Recommendation 21: Also, on the basis of its analysis of the global situation of the supply of opiate raw materials and demand for opiates for medical and scientific purposes, the Board urges major cultivating countries to ensure that there are no shortages on the global markets of the opiate raw materials rich in thebaine, codeine and oripavine.

Recommendation 22: The Board also reminds countries that cultivate opium poppy rich in noscapine to provide information in a consistent and regular manner about the cultivation of noscapine-rich opium poppy, its intended use and any extraction and use of the internationally controlled alkaloids in spite of the fact that noscapine itself is not an internationally controlled substance, given that significant amounts of internationally controlled alkaloids can be extracted from opium poppy rich in noscapine.

Psychotropic substances

955. The 1971 Convention does not require Governments to provide directly to the Board information on diversions or seizures of psychotropic substances from licit channels, although a number of Governments do provide such information to the Board on a voluntary basis. The Board is grateful to countries that provide voluntary reports or other information regarding seizures or other interdiction

efforts with regard to trafficking in or diversion of psychotropic substances.

Recommendation 23: The Board calls upon Governments to furnish directly to the Board any information on diversions or attempted diversions of psychotropic substances and to keep the Board apprised of developments in the trafficking of psychotropic substances.

Recommendation 24: Furthermore, and pursuant to Commission on Narcotic Drugs resolution 50/11, the Boards calls upon all Governments to notify it, in a regular and standardized manner, of seizures of internationally controlled licit substances ordered through the Internet and delivered through the mail.

Mental health and the availability of and access to internationally controlled psychotropic substances

956. Improving mental health care for all is essential to achieving Sustainable Development Goal 3, on ensuring healthy lives and promoting well-being for all at all ages. Governments are reminded to ensure that those living with mental health challenges are provided with appropriate access to the treatment and medications required to alleviate their suffering and thus enable them to participate fully in society without stigma or discrimination. The Board wishes to stress the importance of including mental health treatment and support services in national health-care systems and ensuring that those services continue to be provided to populations, including during emergency situations.

Recommendation 25: The Board reminds Governments to ensure that those living with mental health conditions are provided with access to the adequate treatment and the medications required to alleviate their suffering, thus enabling them to participate fully in society without stigma or discrimination. The Board wishes to stress the importance of including mental health treatment and support services in national health-care systems and ensuring that those services continue to be provided to populations, including during emergency situations.

Availability of internationally controlled substances for medical and scientific purposes

957. Over half a century ago, in adopting the Single Convention on Narcotic Drugs of 1961, and later the 1972

Protocol amending the 1961 Convention, and the Convention on Psychotropic Substances of 1971, the international community made a commitment to ensure – and not unduly restrict – the availability of drugs considered indispensable for medical and scientific purposes. Despite that commitment, there remains a significant imbalance in the availability of controlled substances globally, an imbalance which not only goes against the aim of the international drug control conventions to promote the health and welfare of humankind but also contradicts numerous human rights instruments that contain the right to health or medical care, which also encompasses palliative care.

958. The data available confirm the persistent disparities between regions in the consumption of opioid analgesics for the treatment of pain. Almost all such consumption is concentrated in Western Europe, North America, Australia and New Zealand, while the large majority of the world population still has limited access or no access to proper pain relief treatment. The supplement to the present report, *No Patient Left Behind: Progress in Ensuring Adequate Access to Internationally Controlled Substances for Medical and Scientific Purposes*,¹⁷⁰ demonstrates that the availability of internationally controlled drugs can be – and has been – improved within the framework of the international conventions.

Recommendation 26: Some progress has been made since 2016 in realizing the goal of ensuring adequate availability of and access to controlled medication, which is key to achieving Sustainable Development Goal 3, on ensuring healthy lives and promoting well-being for all. However, it is necessary to continue working to ensure that this goal is enshrined in all national drug control policies and practices. Adequate access to narcotic drugs and psychotropic substances for medical purposes can be improved through corrective action by States that should address the regulatory, attitudinal, knowledge-related, economic and procurement-related aspects identified as the causes of inadequate availability. The Board is committed to working and assisting the international community for the greater availability of and access to controlled substances for medical and scientific purposes. The Board urges Member States to implement the recommendations made in the above-mentioned supplementary report on the availability of internationally controlled drugs.

¹⁷⁰E/INCB/2022/1/Supp.1.

Precursor chemicals

959. Chemicals not in Table I or Table II of the 1988 Convention that can be used to illicitly manufacture, or substitute for, precursors under international control have been encountered in all regions of the world. To support Governments in exchanging information about international trade in such chemicals, the Board has launched PEN Online Light, a new system allowing exporting countries to notify planned shipments on a voluntary basis. In addition, at the sixty-fifth session of the Commission on Narcotic Drugs, in March 2022, Governments endorsed a set of recommendations to intensify efforts to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors. Importantly, those recommendations included calls on INCB and Governments to consider groups of related substances when proposing chemicals for international control or placing domestic controls on such substances.

Recommendation 27: The Board encourages Governments to intensify their efforts to address the diversion of non-scheduled chemicals and the proliferation of designer precursors by considering implementing the recommendations contained in Commission on Narcotic Drugs resolution 65/3, including by voluntarily sharing information on planned exports involving non-scheduled chemicals. Governments may draw on a number of resources, tools and guidance materials, available on the website of the Board and discussed in greater depth in the report of the Board for 2022 on the implementation of article 12 of the 1988 Convention.

Proliferation of highly potent synthetic non-fentanyl opioids

960. In addition to the substantial proportion of overdose deaths resulting from illicit fentanyl manufacture, newly emerging highly potent synthetic non-fentanyl opioids are being encountered in drug markets around the world. Similar to fentanyl and its analogues, the potency of many of these non-fentanyl opioids, such as analogues of the nitazene group, allows for the trafficking of smaller end-use quantities through express logistics and postal services worldwide. Online platforms and services, including e-commerce, social media and search and financial services, are exploited by vendors marketing these dangerous opioids with no known legitimate uses. INCB maintains a list of 152 fentanyl-related substances and 55 non-fentanyl opioids with no known medical, industrial or other legitimate use.

Recommendation 28: The Board encourages Governments to direct more domestic attention towards the monitoring of trafficking and the toxicity of emerging synthetic non-fentanyl opioids and to exchange information and develop actionable intelligence to interdict those and other dangerous psychoactive substances not under international control.

Recommendation 29: The Board invites all Governments and, through them, industry partners to voluntarily refrain from any manufacture, marketing, export, import or distribution of the 55 synthetic non-fentanyl opioids on the Board's list.

Recommendation 30: The Board encourages Governments to make regular use of the bulk communication feature in IONICS to provide comprehensive real-time information in bulk on all new psychoactive substances and non-medical synthetic opioids seized and stopped and otherwise suspicious shipments, and to facilitate potential backtracking investigations involving, in particular, dangerous synthetic opioids.

Recommendation 31: The Board calls upon all Governments to nominate active law and regulatory enforcement focal points and increase use of the new GRIDS Intelligence HD targeting platform and the ELITE training environment to increase the capacity of focal points to identify, target and interdict consignments of new psychoactive substances and emerging synthetic opioids.

Recommendation 32: The Board encourages Governments to engage its relevant private sector partners with the goal of voluntarily identifying, preventing and eliminating exploitation of industry by traffickers of dangerous synthetic opioids not under international control with no known legitimate use, with support from the GRIDS Programme when requested.

Recommendation 33: The Board reminds Governments of capacity-building tools and expertise available as part of the INCB GRIDS Programme and encourages authorities to avail themselves of the support of the regional technical officers of the GRIDS Programme located in Egypt, India, Mexico, Nigeria and Thailand.

Article 13 of the 1988 Convention and illicit drug manufacturing equipment

961. Since 2019, the Board has raised awareness about the importance of article 13 of the 1988 Convention as a complementary tool in addressing illicit manufacture, ranging from narcotic drugs, psychotropic substances and

precursors under international control to new psychoactive substances and emerging non-medical synthetic opioids. The Board has developed guidance materials and practical tools for use by Governments and has encouraged information-sharing and cooperation to prevent and investigate cases of diversion and trafficking. In October 2022, the Board convened a consultation with Member States on the subject, during which the Board's first technical report on equipment and article 13 was launched.

Recommendation 34: The Board invites Governments to review the recommendations in the technical report, available on the Board's website and to improve implementation of article 13 of the 1988 Convention by making full use of the available resources, enhancing knowledge related to the licit and illicit uses of equipment within national territories, sharing approaches and experiences and cooperating with one another and the Board.

INCB Learning

962. INCB Learning has developed five e-modules to support Governments in key areas of their treaty compliance. Three e-modules focus on the following systems: (a) the system of estimates of annual legitimate medical and scientific requirements for narcotic drugs; (b) the system of assessments of annual legitimate medical and scientific requirements for psychotropic substances; and (c) the system of estimates of annual legitimate requirements for imports of precursors of amphetamine-type stimulants. One e-module highlights the international drug control

framework and the role of INCB. The fifth e-module, which was developed and launched in 2022, supports Governments in their efforts to ensure the adequate availability of narcotic drugs and psychotropic substances. All e-modules offer interactive, self-paced training.

Recommendation 35: The Board encourages Governments to register officials of their competent national authorities for the e-modules and to provide feedback and suggestions for areas in which the development of further training is needed.

963. To keep stakeholders abreast of developments, INCB Learning newsletters are published regularly on the INCB Learning website and disseminated to competent national authorities at their request.

Recommendation 36: The Board invites national drug control officials interested in INCB Learning activities and learning tools to subscribe to the newsletter by sending an email to incb.learning@un.org.

964. The Board is grateful for the contributions that it has received from the Governments of Australia, Belgium, France, the Russian Federation, Thailand and the United States since the INCB Learning programme was established in 2016.

Recommendation 37: The Board invites Governments to consider actively supporting INCB Learning by participating in its activities.

(Signed)
Jagjit Pavadia, President

(Signed)
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