

# I. DRUG ABUSE AND THE CRIMINAL JUSTICE SYSTEM

## A. Challenges to criminal justice systems

1. The International Narcotics Control Board calls on all Governments, when determining their national drug control policies, to recognize the important contribution of criminal justice systems in preventing and controlling the illicit supply and consumption of drugs.\* There are several ways in which the criminal justice system can assist in the struggle against drug production, trafficking and abuse and drug-related crime. It is aimed at convicting and punishing the guilty, thereby deterring criminal conduct, as well as offering to the abuser an opportunity for treatment and rehabilitation. By making drug seizures, it reduces the quantity of illicit drugs in circulation, thus making it more difficult for users to obtain such drugs. Freezing and confiscating assets derived from drug trafficking not only deprive traffickers of the proceeds of their activities, but can also provide an additional source of revenue for law enforcement activities.

2. The Board notes that there has been a significant increase in the amount of opiates, amphetamines, other psychotropic substances and cocaine seized in recent years. Those seizures reflect the increased efforts and resources devoted by many States to fighting the growing problems of illicit trafficking and drug abuse. Since 1980, global seizures of opiates have increased more than fivefold and seizures of cocaine have increased over tenfold. There has also been an increased number of arrests and convictions of drug offenders, including illicit drug producers and traffickers and persons engaged in laundering drug-related proceeds. Although these developments are in part an indication of growth in the drug abuse problem, they are also an indication of better law enforcement and better training of law enforcement officers.

3. The Board notes that, despite increased law enforcement efforts, illicit drug production, trafficking and abuse have expanded into regions not previously affected. New trafficking routes have emerged, new drugs of abuse have been developed and drug trafficking organizations have replaced their jailed members. Changing social and economic factors, although promoting legitimate world trade and development, have also facilitated the work of drug traffickers. Reduced border controls and newly created trade agreements have not only eased the worldwide movement of legal goods, but have also simplified the smuggling of drugs of abuse. Improvements in communications and transportation have provided opportunities for drug traffickers to operate their organizations throughout the world. The development of new agricultural methods has increased illicit crop yields and chemical advances have enabled greater production of illicit drugs. All of these factors have complicated the work of law enforcement, often resulting in much more sophisticated techniques being required to investigate drug trafficking.

4. Major drug trafficking organizations are involved in a complex chain of transactions, including planning and organizing, purchasing raw materials from farmers, chemical processing, transportation, national and international distribution and money-laundering. The Board notes that many law enforcement agencies do not have the resources and skills to do more than apprehend the street seller and the individual drug abuser, leaving intact the structure of the production and distribution chain and, above all, its management. Furthermore, while many members in the higher echelons of drug trafficking groups go unpunished, the growing number of small-time pushers and drug users being arrested is putting pressure on criminal justice systems by increasing prison populations and prison expenditure, as well as the cost of running law enforcement operations and the judicial system. This may lead to a feeling of injustice in the community and undermine public confidence in the criminal justice system. Many jurisdictions are experiencing the combined effect of increased illicit drug trafficking and consumption, more vigorous drug law enforcement and growing prison populations.

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\*"Drugs" means narcotic drugs and psychotropic substances as defined by the relevant international conventions.

5. An area requiring special attention is the provision of adequate safeguards against the corruption or intimidation of public officials and institutions. The enormous sums of money generated by illicit drug trafficking have given drug traffickers immense economic power. This has enabled them to subvert public administration, including the criminal justice system, by bribing or otherwise corrupting officials or, if that fails, by attempting to intimidate them through threats and acts of violence. Police, judicial officers, politicians, tax authorities, customs officers and other officials are all threatened in some way. Moreover, legitimate businesses may become involved in the laundering of drug trafficking proceeds.<sup>i</sup> Such money may then be invested again in otherwise legitimate businesses, making them dependent on illicit sources of funding and providing them with an unfair competitive advantage over businesses without such backing. Corruption undermines the legitimacy of governments and public confidence in the rule of law, as well as economic and social institutions. Corruption should be recognized as a problem before governments introduce countermeasures involving legislation, training and procedural safeguards. Substantial improvements to the conditions of service are needed for holders of public office.

6. A more strategic approach to tackling drug trafficking is needed to reduce supply more efficiently and to free the stretched resources of national criminal justice systems. The aim should be not only to arrest and try individuals suspected of having committed drug-related crimes, but also to disrupt the operations of entire drug trafficking gangs and eventually put them out of business. This can be done by targeting the organizers of such criminal groups for investigation and prosecution, by enhancing international cooperation and by depriving drug traffickers of the proceeds of their crimes, which in turn limits their opportunities to reinvest and to finance corruption. In this way weak and permissive jurisdictions can be strengthened and safe havens gradually eliminated.

## **B. Enhancing international cooperation against drug trafficking**

7. While many commendable efforts to improve law enforcement have been made at the national level, the fact remains that most large-scale drug trafficking operations are internationally based: the organizers of a criminal network may be in one country, the producers in a second country, the distributors in a third and the proceeds of crime may be laundered in a fourth. Thus, apprehending offenders involved in illicit distribution only in one country is like cutting off some branches of a tree but leaving the roots intact.

8. Since under international law it is not permissible to enforce the law of one country within the territory of another without the express consent of the latter, regional and interregional cooperation between law enforcement agencies has to be extended more effectively to the judicial area in order to provide an opportunity to destroy the whole structure of a trafficking network and seize the proceeds of crime. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>ii</sup> provides guidance on how this may be achieved: by affording mutual legal assistance in investigations, prosecutions and judicial proceedings and extraditing fugitives to requesting States; by establishing and maintaining channels of communication between competent agencies; and by providing cooperation in conducting inquiries having an international character, such as the identity and activities of suspects, the movement of the proceeds of crime and the movement of controlled substances. In article 9, paragraph 1, the 1988 Convention provides for the establishment of joint teams authorized by appropriate national authorities to conduct cooperative investigations and other activities. The parties involved, while always respecting the sovereignty of States, should make better use of these methods of cooperation to prevent the movement of illicit drugs and offenders, invoking the provisions of the international drug control treaties or bilateral agreements.

9. It is not always appreciated that the 1988 Convention can be used as an extradition treaty and a mutual legal assistance treaty. It can therefore provide a valuable basis for international cooperation in drug-related matters between countries that do not have such multilateral or bilateral treaties. In accordance with article 6 of the Convention, drug-related offences should be deemed to be extraditable in any extradition treaty existing between parties to the Convention. Where no such treaty exists and a request is made for extradition, the party receiving the request may consider the Convention as the legal basis for extradition (article 6, paragraph 3). Where the parties do not make extradition conditional on the existence of a treaty, they must recognize the offences established in accordance with the Convention as being extraditable offences between themselves (article 6, paragraph 4).

10. The Board is of the view that States could take further measures to improve their cooperation against international drug trafficking. A number of impediments to effective extradition relations still exist; for example, following one of the traditional exceptions to extradition, many States refuse to extradite their own nationals. The time has come to reconsider alternatives to such blanket refusals. States not currently permitted to extradite their nationals should, if unable to prosecute the accused themselves, give full consideration to transferring or surrendering their nationals for trial on the condition that they be returned after trial to serve any sentence. In general, crimes should be tried in the country in which they were committed, where evidence can be more readily adduced. This means that some States will need to review their treaty arrangements and laws applying to the transfer of prisoners between States. The transfer of prisoners to their country of origin not only facilitates international cooperation in prosecuting and convicting drug traffickers, but also serves the humanitarian objective of permitting prisoners to serve out their sentences closer to their families and their own social and cultural environment. In addition, such transfers might provide a practical alternative for States lacking secure prison facilities in which to house dangerous and resourceful offenders.

11. Tax and fiscal offences have been excluded from the coverage of some extradition treaties. Given the requirement under the 1988 Convention to penalize persons engaged in laundering money derived from drug trafficking, it may also be time for States to consider removing any general exclusion of fiscal offences from extradition regimes. Because countering money-laundering is essential to shutting down the drug cartels, fiscal offenders should no longer enjoy immunity from extradition.

12. States should also review their legislation and procedures to ensure that requests for assistance from other States are handled expeditiously and effectively. Article 7, paragraph 8, of the 1988 Convention requires each of the parties to the Convention to designate an authority with the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The transmission of requests for mutual legal assistance and related communications should be effected through the designated authorities.

13. Furthermore, the Global Programme of Action adopted by the General Assembly at its seventeenth special session\* provides a framework for operational cooperation between investigative units in different States. There have already been some notable successes involving large-scale cooperative investigations. The Board believes that the following issues require urgent attention:

(a) Encouraging the development of mechanisms for the timely and secure exchange of operational information and intelligence between governmental regulatory and investigative agencies;

(b) Promoting cooperative initiatives at the international level such as: joint task forces to combat transnational criminal syndicates; international controlled deliveries; exchanges of personnel between law enforcement agencies; and secondments;

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\*General Assembly resolution S-17/2, annex.

(c) Formulating responses and procedures that recognize the relationship between drug trafficking and other criminal activities; at the national level this may mean greater cooperation and coordination between different law enforcement agencies.

14. Practical cooperation between States within a region or subregion in the administration of justice can have considerable benefits for all concerned. In some regions, a number of States could establish a court with the jurisdiction to try major cases involving drug trafficking in order to ensure ready access to the specialized facilities and expertise required to deal with large, complex cases. Likewise, where resources are limited, they could be pooled in an arrangement ensuring the existence of at least one high-security prison in a subregion capable of holding a drug kingpin, which could be used by all the contributing States. Extradition and the transfer of criminal proceedings and prisoners offer other options whereby smaller jurisdictions could transfer persons accused in major cases involving drug trafficking to States that might be better able to deal with them. Furthermore, if an international criminal court is established, serious consideration should be given to including drug trafficking as an international crime under its jurisdiction.

15. For the above-mentioned measures to succeed, it is vital that national police forces become more international in their outlook and more comfortable working in the international environment. In this regard, the expertise and facilities of the International Criminal Police Organization (ICPO/Interpol) have proved to be very useful. While this fact is recognized in principle at many international meetings, in practice many obstacles persist either because institutional frameworks are not yet in place or because some administrations are reluctant to share information (for example, legislation related to data protection is often perceived as placing restrictions on cooperation with administrations of other countries).

16. Parties to the 1988 Convention are required to adopt measures for the confiscation of proceeds derived from drug-related offences or property of the same value. Such offences include not only the traditional forms of sale, distribution, import, export, production and cultivation, but also illicit operations involving precursors\* and money-laundering activities. Parties to the Convention are required to ensure that their authorities are empowered to identify, trace, freeze and seize proceeds and property for the purpose of eventual confiscation. The Convention also provides for cooperation between different States, so that the party in whose territory the proceeds or property is located can implement a confiscation order issued by the requesting State.

17. According to article 5, paragraph 5 (b), of the 1988 Convention, where the proceeds of crime have been confiscated as a result of international cooperation, they may be shared by States that have been parties to successful operations against money-laundering. States may also contribute part of the confiscated proceeds to intergovernmental bodies involved in international drug control. Sharing of confiscated property may be provided for under cooperation agreements between States in the field of mutual legal assistance or international confiscation. Laws may also provide for the proceeds to be allocated to national drug control funds or treatment centres, or to be reinvested in law enforcement or demand reduction activities. The Board notes with satisfaction that a number of States have already introduced such legislation. In 1996 Luxembourg became the first State to donate part of such proceeds to international drug control efforts.

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\*The term "precursor" is used to indicate any of the substances in Table I or II of the 1988 Convention, except where the context requires a different expression. Such substances are often described as precursors or essential chemicals, depending on their principal chemical properties. The plenipotentiary conference that adopted the 1988 Convention did not use any one term to describe such substances. Instead, the expression "substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances" was introduced in the Convention. It has become common practice, however, to refer to all such substances simply as "precursors"; although that term is not technically correct, the Board has decided to use it in the present report for the sake of convenience. 4

18. The Board is concerned over certain far-reaching reservations made in 1996 by Lebanon and the Philippines on provisions related to measures against money-laundering in the 1988 Convention. According to the Vienna Convention on the law of treaties,<sup>iii</sup> a State may, on becoming party to a treaty, formulate a reservation unless the reservation is precluded by the treaty or is incompatible with the object and purpose of the treaty (article 19). In the view of the Board, the validity of reservations going to the core of the 1988 Convention, for example, by excluding important provisions on money-laundering, is questionable from both the legal and policy perspectives. Furthermore, the Board notes that, while other parties may object to a reservation to a treaty, it is considered to have been accepted by States unless they raise an objection within 12 months of being notified of the reservation (Vienna Convention, article 20, paragraph 5).

### **C. National legislation**

19. While all the provisions of the 1988 Convention are important, some are particularly pertinent to strengthening the capacity of criminal justice systems to deal with illicit drug trafficking. These include the requirement that the organization, management and financing of drug trafficking activities, as well as the laundering of drug trafficking proceeds, should be established as criminal offences under domestic law. Governments should also consider reversing the onus of proof regarding the lawful origin of alleged proceeds or property liable to confiscation, pursuant to article 5, paragraph 7, of the Convention, to the extent that it would be consistent with domestic law. Such a reversal can take different forms; for example, there could be a rebuttable presumption that all property acquired before the beginning of the legal proceedings within a defined period of time would be treated as property derived from drug trafficking. The onus of proof in this case would shift to the offender, who must satisfy the court that the assumption is incorrect. It is expressly stated in the laws of some countries that the standard of proof applicable to confiscation proceedings is the civil standard, instead of the more onerous criminal standard of "proof beyond reasonable doubt".\* Some countries also provide for the possibility of proceeding with confiscation independently from a conviction, in particular when the person charged with the offence has absconded or died. The Convention also requires certain factors to be treated as aggravating, including the involvement of an organized criminal group. Specific measures to enhance international cooperation include extradition, mutual legal assistance, the transfer of proceedings and assistance for transit States.

20. Legislation should provide for the efficient investigation and prosecution of drug traffickers, taking into account due process and democratic protections. In most countries there tend to be more arrests for possession of illicit drugs than for drug trafficking or manufacturing, not only because there are greater numbers of drug users but also because possession is simpler to establish. In order to convict criminals higher up the drug trafficking chain, countries may need to simplify their evidentiary requirements in certain cases, under the close supervision of the appropriate judicial authority and with adequate protections for the accused. Otherwise procedural barriers could make it very difficult to successfully prosecute those offenders heading drug trafficking organizations who may not physically commit the crimes they are responsible for. The Board is aware that the question of streamlining evidentiary requirements has to be dealt with in the context of serious crime in general and that any such streamlining should not lead to the abuse of suspects' rights. Legislation should also allow for the prosecution and conviction of persons who participate in organized trafficking groups, as it can be difficult to establish the evidence connecting the most culpable leaders to the crimes committed under their direction, since they may never come in direct contact with the drugs. Additional legislation may be required to encourage witnesses to give evidence, and protection programmes should be considered, as well as the provision of monetary rewards on conviction.

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\*This distinction is more relevant to common-law countries than to civil-law countries.

#### **D. Effective use of criminal justice systems**

21. The Board is aware of the difficulties that many Governments face in making their criminal justice systems more effective. It therefore notes with interest that some have begun to rationalize their criminal justice systems by prioritizing cases deemed to be of greater importance. Some countries are targeting a greater proportion of their resources where the impact of law enforcement efforts upon the flow of the illicit traffic is greatest, namely drug kingpins and key drug traffickers. In other countries, however, high drug-related crime rates have forced law enforcement resources to be used on a more ad hoc basis. More rational use of those resources would reduce the pressure exerted on law enforcement authorities to deal with drug-related arrests and on criminal justice systems to process those arrests.

22. It is recommended that States should consider targeting, as a matter of priority, large-scale drug traffickers and the organizers of drug trafficking operations. Arresting one large-scale drug trafficker has a greater impact than arresting minor offenders; it also frees resources so that the criminal justice system can concentrate more on such higher-priority cases. Other approaches to alleviating the burden of criminal justice systems should also be explored, such as streamlining procedures to reduce the period detainees spend in custody before trial. The use of new technologies such as electronic mail, computerized data transmission, and transmission of documents by facsimile can also improve the efficiency of the administration of justice.

23. The Board considers it vital that the penalties imposed by criminal justice systems be commensurate with the seriousness of the offences. It notes with great concern the short sentences served by some major drug traffickers, often resulting from plea agreements or amnesties. For example, following a government amnesty programme, a major drug figure was recently released in Colombia for good behaviour after having served five years of an eight-year sentence, far shorter than the average time served in many countries by a convicted small-time distributor or transporter of illicit drugs. When the proceeds of a drug trafficker's illicit activities are left largely intact, the deterrent effect of even a long prison sentence is largely nullified. Only when the threat of lengthy prison sentences and the loss of all financial gain are perceived to be real will persons seeking to make a fast fortune be deterred from drug trafficking. Making greater use of treatment and alternative penalties, as well as imposing shorter prison sentences on minor offenders, in accordance with the provisions of the 1988 Convention would result in more effective administration of justice and would free resources to deal more effectively with major instigators of drug-related crime.

24. The Board reiterates that the problem of drug abuse must be dealt with simultaneously from the different perspectives of law enforcement, prevention, treatment and rehabilitation. The alternatives to imprisonment that have been developed in different parts of the world should be examined more closely, bearing in mind the differing legal philosophies and systems. Strains on criminal justice systems, together with a concern to enhance the treatment and rehabilitation of, above all, juveniles, first offenders and the infirm, have led many countries to search for alternatives to incarceration, such as house arrest, supervised probation, community service or other non-custodial measures. In consequence, a number of debates have developed concerning, among other things, the effectiveness of these alternative sanctions, difficulties in their enforcement and the cost-effectiveness of such sanctions.<sup>iv</sup>

25. In their articles on penal provisions, three of the international drug control treaties refer to measures for the treatment, education, after-care, rehabilitation or social reintegration of the offender as alternatives to conviction or punishment or in addition to conviction or punishment: the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol,<sup>v</sup> article 36; the Convention on Psychotropic Substances of 1971,<sup>vi</sup> article 22; and the 1988 Convention, article 3.

26. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders invited Member States to avoid, reduce or eliminate overcrowding in prisons by considering the use of a combination of measures: a reduction in the length of prison sentences available; the substitution of non-custodial sanctions or measures; and the reduction of pre-trial detention by facilitating pre-trial release or the use of bail and recognizances. The Eighth Congress also invited Member States to consider the use of non-custodial measures in relation to the personal use of drugs and to provide medical, psychological and social treatment programmes for drug-dependent offenders in appropriate cases.<sup>vii</sup> In addition, the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)\* set out generally accepted principles and practices concerning non-custodial measures. One main objective of these measures is to allow for a bridge between the penal system and the system of care for offenders who are drug abusers, depending on the seriousness of the offence and the condition of the offender. In this regard, the Board believes that increased cooperation between judicial, health and social authorities is a necessity. There is a range of alternatives to conviction for relatively minor offences, including discontinuation of criminal proceedings, conditional discontinuance and admonishment or cautioning, as well as a range of alternatives to custody, including fines and suspended sentences, parole, probation, community service, corrective labour, treatment and supervision. It should, however, be clearly understood that the Board, in supporting appropriate recourse to treatment and non-custodial measures for minor offences, is in no way suggesting that drug-related offences should be decriminalized or that the implementation of the international drug control treaties should at all be weakened.

27. There are different ways in which a criminal justice system may make better use of available resources: for example, by management of the flow of arrested persons into the criminal justice system by prioritizing the offences to be targeted; and also by management of the arrested persons within the various stages of the criminal justice system and by making appropriate use of various sentencing modalities. Both the absolute number of drug-related convictions and the often increasing length of prison sentences can have adverse effects upon prison conditions. Prison overcrowding, which is only one aspect of this, may in turn have adverse effects not only on prison conditions, but also on the likelihood of prison violence. The increased use and availability of illicit drugs in prisons and the related increased risk of infection from the human immunodeficiency virus (HIV) and of other infections, as well as minor drug offenders being exposed to the "school of crime" in prison, are side effects of law enforcement and criminal justice policies that require close consideration.

28. Many countries are exploring alternative ways of dealing with drug offenders. Minor drug offenders may be diverted from the criminal justice system because of a desire to avoid the imprisonment of first-time offenders or juveniles, the need to provide for treatment and rehabilitation or the need to relieve courts and correctional systems overburdened by large numbers of people charged with minor offences. Drug treatment can be a cost-effective alternative to imprisonment, reducing related health-care costs as well as costs associated with criminal proceedings and imprisonment. Treatment may also be included in local or national demand reduction programmes that encourage drug addicts to undergo treatment voluntarily. A number of countries have community programmes operating on both a formal and informal basis to assist in this regard, independently of the arrest or conviction of the drug user.

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\*General Assembly resolution 45/110, annex.

## E. Treatment

29. Diverting a drug offender from conviction and imprisonment can involve measures ranging from offering the offender a choice between supervised treatment or imprisonment (or including treatment as part of a prison sentence) to civil commitment,\* which has proved to be the most controversial form of intervention. It can occur at any stage of the criminal justice process: before trial, after trial (i.e. instead of imprisonment, as in the case of a suspended sentence), during imprisonment or as a condition of parole. There are a number of national treatment regimes, each designed with local conditions in mind, that illustrate the diversity of the approaches that are possible. States reviewing their own treatment and alternative sentencing provisions should structure programmes bearing in mind their requirements and internationally accepted principles governing practice in this area (as set out in the Tokyo Rules, for instance). The following are examples of such national treatment regimes:

(a) In Cape Verde and Portugal, when drug-dependent offenders who have been convicted and sentenced for certain drug crimes voluntarily seek treatment in the manner specified by the court, the court may suspend punishment; if a drug addict fails to take the required treatment or to fulfil any other duties imposed by the court, the court may order the suspended punishment to be imposed;

(b) In France, a number of possibilities exist in connection with the criminal justice system. For example, the completion of a prescribed course of treatment by a drug offender can provide grounds for not prosecuting the offence; alternatively, addicts may present themselves voluntarily and anonymously for treatment;

(c) In Malaysia, if tests show that an arrested person is drug-dependent, a magistrate may order him or her to attend a rehabilitation centre under strict conditions;

(d) In Sweden, drug abusers may be ordered by the court to undergo treatment. In such a case the prosecution has a discretionary power to discontinue proceedings against the drug abuser, on condition that the offence of which he or she is accused carries a term of no more than one year of imprisonment;

(e) Some states in the United States of America have established drug courts to cope with the large number of minor drug offenders entering the criminal justice system. The drug courts have been designed to offer treatment while retaining the necessary judicial influence and power to deal with offenders. The drug courts send offenders charged with relatively minor offences, such as drug possession or purchasing, to education, treatment or vocational assistance programmes which, in turn, are monitored by the courts. At the end of the programme, the offender could have the charge dismissed or could be placed on probation. Those persons who fail to comply with the court orders are subject to graduated sanctions, including imprisonment;

(f) In Venezuela, a person possessing small quantities of an illicit drug for personal use, but not having been arrested for committing any crime, is tested in a non-penitentiary prevention centre under the supervision of a criminal court judge; if the person is found to be an addict, he or she must undergo compulsory treatment recommended by specialists under the judge's supervision (occasional abusers may be ordered to be released and to undergo supervised treatment).

30. A drug offender's encounter with the criminal justice system can provide a valuable opportunity to motivate him or her to undergo treatment, particularly if it occurs early in the offending cycle, before the offender becomes more deeply involved in criminal activities. The individual can be provided with a diagnostic assessment of his or her clinical needs. A treatment programme can be recommended or provided that may not ordinarily be available in the court or prison system.

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\*Civil commitment generally takes the form of direct and involuntary remanding of an individual to the health-care system in which civil procedures alone are followed, which may not require the provision of legal counsel, the calling of defence witnesses and other safeguards usually applied in a criminal case.

Furthermore, the inclusion of treatment provisions in drug control legislation gives the courts additional flexibility in imposing alternatives to penal sanctions. A court order in favour of treatment can demonstrate to the offender the seriousness of the offence and can also help to keep him or her in treatment long enough for the outcome to be successful. However, care needs to be taken that the treatment is not more restrictive than the proportional punishment would have been.

31. Any treatment programme should be carefully considered at the policy level, and programme objectives should be clearly articulated. For example, treatment programmes are generally designed (a) to enable the persons concerned to establish and maintain a drug-free lifestyle; (b) to reduce the demand for illicit drugs; (c) to reduce crime; and (d) to assist drug abusers by improving their health as well as their chances of social reintegration. There should be an evaluation component built in from the outset so that a programme's success in meeting its objectives can be assessed. Policy makers should consider how to balance different factors, such as the need for due process in proceedings to safeguard civil rights, treatment needs and other humanitarian requirements, as well as law enforcement objectives. Ideally drug offenders should be given a programme tailored to meet their needs. In addition, treatment programmes should be allowed sufficient time to be effective. The need for relapse prevention and after-care subsequent to the primary treatment programme should also be addressed. The effectiveness of such programmes depends on the expertise of those conducting them, the availability of places in suitable facilities and close cooperation between criminal justice and health agencies. Adequate resources should be allocated to maximize their chances for success. Treatment services should also be made available within the prison system.

#### **F. Professional training**

32. Adequate professional training should be provided for personnel engaged in the criminal law system, including members of the police, customs and coastguard, as well as judicial authorities. Prosecuting authorities should be given training to achieve a high level of technical expertise in dealing with their specialized areas of criminal activity. The 1988 Convention states that such training should deal with methods used in the detection and suppression of offences; measures against routes and techniques used by suspects; monitoring the import and export of narcotic drugs and psychotropic substances and substances in Table I and Table II of the Convention; collection of evidence; control techniques in free trade zones and free ports; and modern law enforcement techniques. The collection and analysis of strategic and tactical information by trained personnel are important to the successful prosecution of the leaders of drug trafficking organizations. Reliable evidence-gathering techniques should be used, with judicial supervision where necessary and taking into account the protection of human rights. Such techniques include electronic surveillance and the interception of telephone communications (requiring strict judicial control), utilizing computers and electronic communications, the use of undercover agents and controlled delivery, as well as financial investigations. By developing the capacity to gather and analyse intelligence more effectively, law enforcement will be able to focus its scarce resources on those areas that seem to offer the best prospects of success.

33. There should also be training programmes to improve the skills of law enforcement officials dealing with regional drug trafficking. It may also be useful to make available to members of the judiciary training concerning the special procedural and evidentiary requirements of major cases involving drug trafficking. Such training could deal with, for example, guidelines for the evaluation of chemical tests of controlled substances; reports and financial analyses for cases involving money-laundering; and managing cases involving complex organized criminal groups where there may be guilt by association or vicarious liability.

34. Land-based interdiction should be complemented by measures to prevent illicit trafficking by sea as provided for by article 17 of the 1988 Convention. Specialized training may be necessary to ensure that law enforcement officers with marine jurisdiction are properly trained and equipped for

boarding and searching vessels. Measures should also be introduced to monitor traffic in free ports and free trade zones with a view to detecting consignments of illicit drugs.\* As regards the difficulties of combating illicit drug trafficking on the high seas, the time will come to review articles 108 and 110 of the United Nations Convention on the Law of the Sea<sup>viii</sup> with a view to including a reference to precursor chemicals and, more important, to establishing the right of visit in cases of illicit drug trafficking as is provided for in cases of piracy, slavery or non-authorized radio emissions.

Today these kinds of activities are no more relevant and dangerous than illicit drug trafficking.

35. Units investigating cases involving drug trafficking need a certain degree of specialization in order to be effective. One way to achieve this would be for police forces, customs and coastguard services to establish narcotics divisions within, or structurally linked to, divisions investigating organized crime. It is also vital to ensure that there is close coordination between all relevant agencies, such as customs, coastguard and general law enforcement.

### **G. Concluding remarks**

36. The Board calls on all Governments to address themselves carefully to the problems faced by their criminal justice systems and to develop strategies and practical measures to make their systems more efficient. The impact that the criminal justice system can have on combating illicit trafficking and drug abuse justifies Governments and the rest of the international community giving those strategies and measures their full attention. The special session of the General Assembly on drug control, proposed for 1998, could be an occasion to determine principles relating to good management of criminal justice systems.

37. The Board calls again on Governments that have not already done so to accede to the international drug control treaties and to implement fully their provisions. In sum, the Board concludes that:

(a) Governments should keep their laws under constant review to ensure compliance with the international drug control conventions, including the establishment of the required criminal offences and appropriate punishments, rehabilitation and treatment programmes;

(b) A more strategic approach to preventing and combating illicit trafficking in drugs should be adopted, along with more severe penalties for serious offences, in order to disrupt the operations of trafficking groups;

(c) Parties to the 1988 Convention should use it among themselves as an extradition treaty and a mutual legal assistance treaty. States should reconsider the traditional exceptions to extradition, including blanket refusals to extradite their nationals;

(d) Legislation should target the investigation, prosecution and conviction of participants in organized trafficking groups, while balancing due process and democratic protections;

(e) Governments should consider reversing the onus of proof regarding the lawful origin of alleged proceeds or property liable to confiscation in all judicial proceedings related to drug trafficking;

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\*Cooperation in this area has been promoted by the Working Group on Maritime Cooperation, which met at Vienna from 19 to 23 September 1994 and from 20 to 24 February 1995, and by the Expert Group on Maritime Drug Law Enforcement, which was convened by the United Nations International Drug Control Programme (UNDCP) from 27 to 29 February 1996.

(f) While still retaining criminal sanctions against drug abuse and trafficking, greater use of treatment and non-custodial sentences, as well as shorter terms of imprisonment, should be made for minor offenders in accordance with the provisions of the 1988 Convention, thereby reinforcing cooperation between the criminal justice, health and social systems;

(g) Consideration should be given to establishing specialized units investigating drug trafficking cases within or linked to law enforcement agencies. Close coordination between all relevant agencies, such as customs, coastguard and police departments, should be encouraged, and training should be provided;

(h) International cooperation should be strengthened not only among enforcement agencies, but also among judicial authorities.