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Consultation with Member States:
The human rights dimension of the drug control conventions**

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Criminal Justice Responses in line with Human Rights

Excellencies, ladies and gentlemen,

The Board has repeatedly stated in its annual reports as well as through its engagement with the international community, including member states, international organisations and civil society, that full respect for internationally recognized cross-cutting human rights norms and the rule of law is an essential condition for full compliance with the three international drug control treaties.

I would like to touch upon certain requirements with respect to human rights standards and norms within the criminal justice process that are enshrined in the international drug control treaties. The work that the Board carries out in this area is also in line with the efforts of the global community to promote the commitments under Sustainable Development Goal 16, which calls for “promotion of peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels”.

In particular, Target 16.1 of this SDG is to significantly reduce all forms of violence and related death rates everywhere. In this regard, the Board recognized that the approach of drug policies in some countries have led to disproportionate and overly repressive responses without or poor respect for due process and the rule of law. Such responses contributed to an increase in violence and related death rates. In this context, the Board has taken a strong and unequivocal stance in condemning violations of human rights in the name of drug control and will continue to do so resolutely. The Board has also been working with State parties, international organisations, as well as civil society and academia to promote effective national drug control systems through a comprehensive, integrated and balanced approach, based on the requirements of the international drug control treaties That includes the principle of proportionality in the determination of penalties, respect for human rights and liberties and the rule of law.

On the principle of proportionality, the Board has repeatedly called upon States to give due regard to that principle in the implementation of criminal justice policies to address drug-related crime. As early as in 2007, INCB dedicated the thematic chapter of its Annual Report to this topic. In that and subsequent reports, the Board underlined that "disproportionate responses undermine the aims of the

conventions and undermine the rule of law". The Board also called on Governments "to comprehensively review the responses by their legislative, judicial and executive arms of government to drug-related offences, in order to ensure that they are proportionate". International drug control treaties require that State parties "make the commission of the offences ... liable to sanctions which take into account the grave nature of these offences". Accordingly, punishment for criminal offences has to be adequate and directly proportionate to the seriousness of the crime.

The international drug control treaties also require that whereas serious offences shall be liable to adequate punishment, offences of a minor nature or the possession of small quantities for personal consumption must not necessarily be liable to conviction or punishment and to punitive criminal sanctions. In those cases, States can provide, as alternatives to conviction or punishment, measures such as education, treatment, rehabilitation, recovery or social reintegration. It must be noted that, in addition to their obligations under the international drug control treaties, State parties have undertaken, through the 2009 Political Declaration, the 2016 UNGASS Outcome Document and the 2019 ministerial declaration, to give due regard to the principle of proportionality and the concept of alternatives to punishment in the design and implementation of their respective national drug policies.

The Board also continues to condemn, in the strongest possible terms, the use of extrajudicial measures by some State parties under the guise of drug control. Every year, the Board reiterates its appeal to Governments to take all measures necessary to prevent the extrajudicial targeting of persons suspected of involvement in drug-related offences, or drug users. Governments are also called upon to investigate and prosecute all instances of extrajudicial action purportedly taken in the name of drug control.

The Board dedicated a special topic to this matter in its Annual Report in 2018, where it stated that the international drug control treaties require that drug-related crime be addressed through formal criminal justice responses and respect internationally recognised due process standards. This excludes the possibility of any extrajudicial sanctions. This approach is also in line with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which require adherence to internationally recognized due process standards.

With respect to drug use, the international drug control treaties commit to a humane and balanced approach, requiring the parties to give special attention to and take all practicable measures for the prevention of drug misuse and the early identification, treatment, education, aftercare, rehabilitation, recovery and social reintegration of the persons with drug use disorders.

The Board through its work also facilitates measures to protect the right to life, liberty and security of the person, which is enshrined in the international human right instruments. Of particular relevance in this regard is Target 16.4 of the SDGs, which calls for a significant reduction, by 2030, of illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime. The provisions of the international drug control treaties related to criminal justice, covering issues, such as penal matters, international judicial and law enforcement cooperation, extradition, asset forfeiture and confiscation, can serve as effective legal instruments in addressing not only drug-related offences, but also any associated criminal activity, such as organized crime, corruption and money-

laundering. The Board, by promoting these measures, supports efforts to address drug trafficking and other associated crimes, such as money laundering and arms trafficking, thereby supporting measures to protect the right to life, liberty and security of the person.

Within its treaty-based mandates, the Board will continue to cooperate with State parties and members of the international community on these matters of critical importance in facilitating development and effective implementation of strategies, policies and laws in line with the provisions international drug control treaties and cross-cutting human rights instruments as well as relevant political commitments and the Sustainable Development Goals.

Thank you.