INTERNATIONAL NARCOTICS CONTROL BOARD

Celebrating 60 Years of the Single Convention on Narcotic Drugs of 1961

"... a generally acceptable international convention ..."

and 50 Years of the Convention on Psychotropic Substances of 1971

"... an international convention is necessary ..."

UNITED NATIONS

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The *Report of the International Narcotics Control Board for 2020* (E/INCB/2020/1) is supplemented by the following reports:

Celebrating 60 Years of the Single Convention on Narcotic Drugs of 1961 and 50 Years of the Convention on Psychotropic Substances of 1971 (E/INCB/2020/1/Supp.1)

Narcotic Drugs: Estimated World Requirements for 2021—Statistics for 2019 (E/INCB/2020/2)

Psychotropic Substances: Statistics for 2019—Assessments of Annual Medical and Scientific Requirements for Substances in Schedules II, III and IV of the Convention on Psychotropic Substances of 1971 (E/INCB/2020/3)

Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2020 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/INCB/2020/4)

The updated lists of substances under international control, comprising narcotic drugs, psychotropic substances and substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, are contained in the latest editions of the annexes to the statistical forms ("Yellow List", "Green List" and "Red List"), which are also issued by the Board.

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Foreword

Six decades ago, the international community came together in its concern about the health and welfare of humankind to discuss the indispensable role of narcotic drugs for the relief of pain and suffering, while at the same time acknowledging the public health problem of drug dependence. It decided to bring all the efforts made in previous bilateral and multilateral treaties into a single, unified system of international drug control. The Single Convention on Narcotic Drugs of 1961 was drafted to ensure effective international control over the licit movement of narcotic drugs around the world, from production, manufacture and trade to distribution and consumption. Ten years later, the international community came together again in the same spirit to address the problem of psychotropic substances and developed a similar system of monitoring and control. The underlying approach, which was based on the concept of common and shared responsibility, remains central to the international control system that is in place today.

Even with the reality of the constantly shifting contours of the drug problem, the 1961 Convention, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 have proved their value as cornerstones of international cooperation in drug policy. The fact that the conventions have been almost universally ratified by States underscores that the desire to counter the world drug problem is shared globally. States have regularly reaffirmed their commitment to working within the framework of the three international drug control conventions and the subsequent resolutions and political declarations.

The International Narcotics Control Board (INCB) was established to administer the control system, in cooperation with States parties, and to monitor and oversee the compliance of Governments with treaty obligations. Fifty and sixty years after the adoption of the two conventions, the INCB, according to the data at its disposal, can state that the international system of control, despite the challenges encountered, has been able to achieve international control of the licit production, trade and consumption of controlled substances. There is virtually no diversion of narcotic drugs or psychotropic substances from licit manufacture and international trade to illicit trafficking, even though the number of drugs under the international narcotics control regime has increased substantially.

At the same time, it is important to recognize that the goal of ensuring the availability and accessibility of narcotic drugs and psychotropic substances for medical purposes has not at all been achieved to a satisfactory extent at the global level. Equally, the goals of reducing the illicit cultivation, trafficking and non-medical use of drugs and providing treatment and rehabilitation services to people suffering from drug dependence, which were left to States parties to implement within their own social and cultural contexts, cannot be considered to have been addressed effectively.

The two conventions did not provide specific international tools or instruments for achieving those broader goals of reducing illicit trafficking, ensuring the availability of controlled medicines and providing treatment and rehabilitation services. However, over the years, the international community has recognized the need for concerted action to achieve those goals, devoted considerable resources to assisting countries in need and reiterated the importance of international cooperation.

The drug control system is a balanced system that is geared towards improving public health and welfare and based on the underlying principles of proportionality, collective responsibility and compliance with international human rights standards. Implementing the system means putting the health and welfare of humankind at the core of drug policies, applying comprehensive, integrated and balanced approaches to elaborating drug control policy, promoting human rights standards, giving higher priority to prevention, treatment, rehabilitation and the reduction of the negative consequences of drug abuse, and strengthening international cooperation based on common and shared responsibility.

On this dual anniversary, INCB wishes to re-emphasize that the current system, when fully implemented, contributes to protecting the health and welfare of people worldwide and ensures balanced national approaches in which local socioeconomic and sociocultural conditions are considered. INCB considers that the current system is critically important in addressing the old and new challenges of the world drug problem, but at the same time calls for reflection on possible alternative and additional agreements, instruments and forms of cooperation to respond to the changing nature and magnitude of the global drug problem.

Cornelis P. de Joncheere
President
International Narcotics Control Board

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I. Background

1. The preambles to the Single Convention on Narcotic Drugs of 1961[1] and the Convention on Psychotropic Substances of 1971[2] contain several adjectives to describe the essence and qualities of those treaties: international, generally acceptable and necessary. "International" emphasized the need to provide for continuous international cooperation and control in order to achieve the aims and objectives of the conventions. "Generally acceptable" described the desire to garner general support, approval and acceptance for the implementation of the minimum common requirements prescribed in the treaties. Finally, "necessary" signified the fact that the international instruments were needed in order to achieve the desired result of protecting the health and welfare of humankind.

2. As the overall goal of the conventions, the health and welfare of humankind was at the heart of the development of the international drug control system. All of the international drug control treaties – the 1961 Convention, the 1971 Convention and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[3] – sprang from that concern. In the preambles to those conventions, parties concretely expressed their interest in protecting the health and welfare of humankind by making those indispensable substances available for medical and scientific purposes while preventing their diversion and abuse.

3. The conventions established a control regime to serve that dual purpose. In addition to limiting the use of narcotic drugs and psychotropic substances exclusively to medical and scientific purposes, the conventions require Governments to take all practicable measures for the prevention of drug abuse and for the early identification, treatment, education, aftercare, rehabilitation and social reintegration of the persons involved (see art. 38 of the 1961 Convention and art. 20 of the 1971 Convention).

4. With almost universal adherence, the international control system for narcotic drugs and psychotropic substances stands as one of the most successful achievements in international cooperation. Almost all States Members of the United Nations are parties to the three conventions: 95 per cent for the 1961 Convention, 93 per cent for the 1971 Convention and 97 per cent for the 1988 Convention, representing some 99 per cent of the world's population. The periodic reaffirmation by States parties of their commitment to the goals and objectives of those international conventions is a clear indication that, 50 and 60 years after their adoption, the aims and means of the conventions as described by the drafters continue to be shared globally.

5. The mandate of the International Narcotics Control Board (INCB) under the international drug control treaties is to ensure, in cooperation with Governments, that adequate supplies of drugs are available for medical and scientific uses, to prevent the diversion of drugs from licit sources to illicit channels and to prevent illicit production, manufacture, distribution and trafficking (art. 9 of the 1961 Convention). In order to achieve those goals, the Board administers the system of estimates for narcotic drugs and a voluntary assessment system for psychotropic substances, as well as monitoring licit activity. The Board also maintains a permanent dialogue with Governments to assist them in complying with their obligations under the international drug control treaties and, to that end, recommends, where appropriate, that technical or financial assistance be provided.

6. Sixty years after the adoption of the 1961 Convention and 50 years after the adoption of the 1971 Convention, it is also time for INCB to assess and reflect on how the two conventions have functioned and performed in relation to their general goals and their specific provisions and requirements, also taking into consideration the

[1] United Nations, *Treaty Series*, vol. 520, No. 7515.

[2] Ibid., vol. 1019, No. 14956.

[3] Ibid., vol. 1582, No. 27627.

many resolutions of United Nations organs and bodies that have added to the international drug control framework, as well as the new challenges in the world drug situation that have evolved over the past half-century.

7. The Board's assessment is based on its experience from several decades of continuous work with States parties to foster the effective implementation of the conventions. The present document reports specifically on the treaty provisions for which the Board has a particular responsibility or for which its mandate places it in a unique position to provide information on achievements under the 1961 and 1971 Conventions.

8. The 1961 Convention built upon earlier national and international measures to control the cultivation, production, manufacture and distribution of narcotic drugs, and it obliged Governments to take measures against the illicit trafficking and abuse of such drugs. The 1971 Convention was a response to the diversification of the spectrum of drugs of abuse, and it introduced controls over a number of synthetic drugs (hallucinogens, stimulants, hypnotics, sedatives and anxiolytics).

9. The primary objective of the 1961 and 1971 Conventions was to lay out a framework of control measures that would ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion from licit sources into illicit channels. In this regard, it is important to note that the provisions against illicit trafficking and for the prevention of drug use and the treatment of drug dependence, although mandatory, were not as detailed as those relating to the regulation of production, trade and consumption for medical and scientific purposes.

10. The control system established in the 1961 Convention has succeeded in limiting, for each country and territory and throughout the world, the licit cultivation of narcotic plants and the licit production, manufacture and distribution of and trade in narcotic drugs to the quantities required for medical and scientific purposes. At the same time, it has become clear that estimating medical needs in a country is complex and depends on many factors, including the organization and financing of the health system, disease patterns, cultural beliefs, training, education and awareness. The World Health Organization (WHO), together with INCB, developed the *Guide on Estimating Requirements for Substances under International Control*, but many countries lack the data required to use that guidance to their full benefit. Most countries continue to underestimate the actual medical need for the substances, and fear of abuse, stigma, lack of awareness and training, and financial constraints have led to limited access to medicines for patients in need. In a few countries, on the other hand, there are concerns that those controlled medicines have been widely overprescribed (e.g., the opioid epidemic) and that usage patterns do not adequately reflect medical needs. The limitation of licit supply has been achieved largely through the following:

(a) Universal acceptance and application of the abovementioned conventions by parties and non-parties alike;

(b) The system of estimates, which fixes the limits (which, once approved by the Board, are binding on all Governments) with regard to narcotic drug requirements for medical and scientific purposes;

(c) Restrictions on the acquisition of narcotic drugs to levels within those limits by means of authorizations.

11. Another achievement of the system has been that the diversion of narcotic drugs from licit sources into illicit channels has been kept to a minimum, despite the large volume of narcotic drugs manufactured and distributed each year. It has been possible to prevent such diversion largely because of the following:

(a) Strict enforcement of the system of estimates by all Governments and the Board;

(b) Comprehensive and stringent national controls based on prior authorizations for cultivation, production, manufacture, conversion and compounding of preparations, wholesale trade and retail distribution;

(c) Accurate record-keeping;

(d) Domestic monitoring or supervision at all stages of the movement of narcotic drugs;

(e) Periodic reporting to the Board by parties and non-parties alike;

(f) Auditing by the Board of statistical and other data furnished by each country and for each drug, together with requests by the Board for explanations and remedial action, if necessary.

12. As for the 1971 Convention, Governments have prohibited the use of substances in Schedule I, except for scientific and very limited medical purposes, and have restricted the licit manufacture of such substances accordingly. The diversion of substances listed in Schedule II to the 1971 Convention from licit sources into illicit channels has been successfully curtailed owing, to a large extent, to the universal application of control measures recommended by the Board and of resolutions adopted by the Economic and Social Council that have served to reinforce the provisions of the Convention.

13. Improvements in the control procedures under the 1971 Convention in response to Economic and Social Council resolutions have helped to stem the diversion of substances listed in Schedules III and IV from international trade. Those resolutions have also led to improved prescribing practices, in particular with regard to barbiturates and other hypnotics, while article 13 of the 1971 Convention has provided parties with a legal basis to engage in bilateral and multilateral cooperation and action against diversion.

14. Since the adoption of those conventions, States parties have developed other instruments to enhance efforts to address illicit cultivation, illicit demand and trafficking through a number of resolutions and declarations in which they expressed their consensus on the need to address the world drug problem and defined specific targets and objectives to support the conventions. Those instruments include the Declaration of the International Conference on Drug Abuse and Illicit Trafficking,[4] the political and ministerial declarations and plans of action adopted in 1990, 1998, 2009 and 2019, and 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", of 2016.[5] A specific system of reporting by countries through the annual report questionnaires was developed to ensure the monitoring of those objectives.

15. One of the main challenges for States when implementing their obligations under the conventions is to determine an appropriate balance in their drug control efforts with regard to the aim of ensuring the availability of medically needed drugs while preventing their abuse and illicit production and trafficking. Although integrated and balanced approaches have existed since the inception of the treaties, they have come to the forefront of international drug control in recent decades. International conventions, by definition, deal with cross-border issues of mutual interest to sovereign States, including international trade. Hence, the conventions focused largely on international trade and trafficking, whereas the development and implementation of measures to prevent and treat drug abuse – while mandated by the conventions – were left to each sovereign State to determine, taking into consideration the local social and cultural context when designing such programmes. Drug use patterns are changing; more synthetic drugs are being used, which often have no legitimate use and can be produced easily in any country. Therefore, drug control efforts must also focus increasingly on illicit production, manufacture and distribution and the risks of diversion within a country.

16. An assessment of the impact of the conventions should take into account that the implementation of measures under the conventions may not be the only (or even the main) factor influencing the achievement of their aims. Cultural, social, economic and other factors also influence the behaviour of drug producers, traffickers and users. Cause and effect can also be difficult to measure because the data on drug production, use and trafficking are often insufficient and of poor quality, and not all countries collect data in a manner that allows for meaningful analysis. Finally, it is also difficult to reflect on and compare the current situation with what could have happened with the world drug problem in the absence of international agreement on the drug control measures under the conventions.

17. In the light of the above, in the present report the Board has analysed those aspects of the conventions for which it has direct operational responsibility and for which it has received information from States parties over time. The analysis includes the status of adherence to the 1961 and 1971 Conventions, the availability of internationally controlled substances for medical and scientific purposes, the functioning of the control system, the role of the Board in monitoring compliance and penal provisions, and it reflects on current and future challenges to the international drug control system.

18. The international normative framework for global drug control consists of a comprehensive set of conventions, political declarations, resolutions and decisions. Those acts and instruments, which differ in legal nature, are all part of a comprehensive drug control system. The international normative drug control framework was not created by a single act, but has been developed step by step over the past 60 years and even earlier.

19. The basis of this normative framework is the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol.[6] The 1961 Convention was followed by two more treaties: the 1971 Convention and the 1988 Convention. After 1988, with a view to implementing and complementing the conventions, the international community adopted a series of political declarations, plans of action and resolutions from 1990 to 2019 – including the outcome document of the thirtieth special session of the General Assembly, held in 2016 – which

[4] *Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17–26 June 1987* (United Nations publication, Sales No. 87.I.18), chap. I, sect. B.

[5] General Assembly resolution S-30/1, annex.

[6] United Nations, *Treaty Series*, vol. 976, No. 14152.

substantiated the provisions of the conventions, established goals and targets for political action and formulated a number of principles for international cooperation. The conventions, together with the political declarations, plans of action and resolutions, constitute the normative drug control framework.

20. The genesis and development of the international drug control treaties are closely connected with national and international responses to the changing situation with regard to drug abuse and illicit trafficking. At the beginning of the twentieth century, in the absence of national and international norms and agreements on control, the non-medical use of narcotics and psychotropic substances was spreading in a number of countries in an alarming way. The first international conference on narcotic drugs, which was held at Shanghai in 1909 and later became known as the Shanghai Opium Commission, and the subsequent International Opium Convention signed at The Hague in 1912, were the result of the international consensus on how to contain the then unlimited availability of narcotic drugs, in particular opium, for non-medical use in several countries, mainly in East Asia but also in some other parts of the world, which had led to the widespread abuse of those drugs and the related health and social problems.

21. Under the League of Nations, supplementary instruments were added to the earlier treaties: the conventions signed in Geneva in 1925, the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931,[7] and the Convention of 1936 for the Suppression of the Illicit Traffic in Dangerous Drugs.[8] Once the United Nations had been established, three new protocols were negotiated: the 1946 Protocol, the 1948 Protocol and the 1953 Protocol.[9]

22. In 1961, the Single Convention on Narcotic Drugs, which merged and replaced all of the previous treaties and agreements on narcotic drugs, was adopted as a universal and comprehensive instrument for drug control. The new treaty simplified the international control machinery and combined the Permanent Central Opium Board and the Drug Supervisory Body into a single unit, namely, the International Narcotics Control Board. The 1961 Convention extended the existing control systems to include the cultivation of plants that were grown as raw materials for narcotic drugs. The 1961 Convention also included the prohibition of traditional consumption, such as smoking or eating opium, chewing coca leaf, smoking cannabis resin and the non-medical use of cannabis.

23. The 1972 Protocol amending the Single Convention on Narcotic Drugs of 1961[10] increased the role of the INCB in preventing illicit production and distribution and broadened the original approach of the 1961 Convention by modifying article 38, giving more attention to prevention, treatment, education, rehabilitation and social reintegration. In addition, article 36 was amended, introducing the option of alternatives to penal sanctions for trade and possession offences when committed by drug users. Those amendments laid more emphasis on the health dimension and the demand side of the drug problem and opened the door to a more balanced approach. Similar approaches were adopted in the 1971 and 1988 Conventions.

24. A further step in the development of the normative framework was the adoption of the 1971 Convention, which introduced a control regime for a large number of synthetic substances with psychoactive effects (e.g., amphetamines, barbiturates and benzodiazepines). The control measures were initially less strict than those for narcotic drugs, but they were strengthened by decisions and resolutions of the Commission on Narcotic Drugs and the Economic and Social Council, leading, in practice, to greater convergence of the two conventions. Even if those decisions and resolutions are not legally binding, they constitute an important part of the agreed control system.

25. The 1988 Convention further enlarged the normative control framework, especially to address the growing illicit manufacture of and trafficking in substances and precursors. It was perceived as necessary because of the growth in transnational organized crime and drug trafficking and the difficulties of pursuing persons involved in drug-related crime and money-laundering at the international level. The 1988 Convention complemented the two previous conventions in the field of judicial cooperation. Its aims were as follows:

(a) To harmonize the definition and scope of drug offences at the global level;

(b) To improve and strengthen international cooperation and coordination among the relevant authorities;

(c) To provide the relevant authorities with the legal means to effectively interdict international trafficking.

[7] League of Nations, *Treaty Series*, vol. CXXXIX, No. 3219.

[8] Ibid., vol. CXCVIII, No. 4648.

[9] United Nations, *Treaty Series*, vol. 12, No. 186, vol. 44, No. 688, and vol. 456, No. 6555.

[10] Ibid., vol. 976, No. 14151.

26. In addition, the 1988 Convention established a new control system for a different type of substances, namely, the precursor chemicals and solvents frequently used in illicit drug manufacture. Under the 1988 Convention, Governments were obliged to monitor international transactions in those substances and to prevent their diversion from licit to illicit channels. This monitoring system relied on communication between government authorities and the relevant market players in order to identify suspicious transactions. Over the years, it led to new forms of control grounded in cooperation between the controlling agencies and the relevant industry.

27. Moreover, it is worth noting that in the 1988 Convention, it was explicitly stated that any control measures adopted to prevent illicit cultivation and to eradicate plants "shall respect fundamental human rights and shall take due account of traditional licit uses … as well as the protection of the environment" (art. 14, para. 2).

Further developments through resolutions of the General Assembly, the Economic and Social Council and the Commission on Narcotic Drugs

28. Since 1961, several resolutions have been adopted by the Commission on Narcotic Drugs and the Economic and Social Council to provide more specific guidance on the implementation of the conventions and to better take into account the realities on the ground, emerging needs and specific aspects.

29. In 1990, the General Assembly, at its seventeenth special session, devoted to the world drug problem, adopted a Political Declaration and a Global Programme of Action[11] that still placed the emphasis on the supply side of the drug phenomenon: the cultivation and production of and trafficking in drugs. It affirmed the principle of shared responsibility in combating drug abuse and illicit traffic in narcotic drugs and psychotropic substances. In order to intensify international cooperation in this direction, the Political Declaration proclaimed the period from 1991 to 2000 the United Nations Decade against Drug Abuse.

30. In 1998, the General Assembly held another special session on the world drug problem and adopted a new Political Declaration accompanied by an Action Plan and the Declaration on the Guiding Principles of Drug Demand Reduction.[12]

31. The Political Declaration of 1998 (and the associated documents on demand reduction, illicit cultivation and illicit trafficking) proclaimed a number of important principles for the implementation of the conventions, such as the principle of common and shared responsibility, the need for an integrated and balanced approach, conformity with the purposes and principles of the Charter of the United Nations and international law (i.e., sovereignty and territorial integrity of States, non-intervention in the internal affairs of States and all human rights and fundamental freedoms). The Declaration on the Guiding Principles of Drug Demand Reduction responded to "the increasing magnitude of the global drug abuse problem" and stated that "the most effective approach to the drug problem consists of a comprehensive, balanced and coordinated approach, by which supply control and demand reduction reinforce each other". The Declaration called upon Governments to "pledge a sustained political, social, health and educational commitment to investing in demand reduction programmes".

32. The Political Declaration of 1998 established the year 2008 as a target for the following:

(a) Eliminating or reducing significantly the illicit manufacture, marketing and trafficking of psychotropic substances, including synthetic drugs, and the diversion of precursors;

(b) Achieving significant and measurable results in the field of demand reduction.

33. In the Political Declaration, Member States were requested to report biennially to the Commission on Narcotic Drugs on their efforts to meet the relevant goals and targets.

34. In the years that followed, the Commission on Narcotic Drugs evaluated, in a broad process, the progress made since 1998, concluding that some progress had been made through positive achievements, but that considerable challenges still persisted and new challenges had emerged. In 2009, the high-level segment of the Commission adopted the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem.[13] The Political Declaration of 2009 reiterated the objective of promoting a society free of

[11] General Assembly resolution S-17/2, annex.

[12] General Assembly resolution S-20/3, annex.

[13] See *Official Records of the Economic and Social Council, 2009, Supplement No. 8* (E/2009/28), chap. I, sect. C.

drug abuse. It confirmed the goals and fundamental principles of the previous declaration, in particular the principle of a balanced and integrated approach. However, it also contained some new elements, including the recognition of drug dependence as a multifactorial health disorder. It underlined that drug control is not an isolated system, but part of the global framework of international agreements, and it stressed the necessity of the participation of civil society in the formulation and implementation of drug policy.

35. The Political Declaration of 2009 established 2019 as the target date for States "to eliminate or reduce significantly and measurably" drug supply and demand, the production and cultivation of drugs, the diversion of precursors and money-laundering related to drugs.

36. The next major milestone in the development of the normative drug control framework was set by the thirtieth special session of the General Assembly, held in 2016. The outcome document of that special session, entitled "Our joint commitment to effectively addressing and countering the world drug problem", reaffirmed the determination of the international community "to actively promote a society free of drug abuse" on the basis of the three drug conventions. It stated that action addressing the world drug problem must be in line with the Sustainable Development Goals and welcomed "continued efforts to enhance coherence within the United Nations system at all levels".

37. Instead of elaborating further on the areas covered in previous political declarations and plans of action (supply reduction, demand reduction and international cooperation), the outcome document contains seven sections in which "operational recommendations" are formulated, including, for the first time, recommendations on access to controlled medicines, on development and on human rights. It underlined the importance of a health-centred drug policy and reiterated the commitment to respecting, protecting and promoting all human rights, fundamental freedoms and the inherent dignity of all individuals. It stressed more than ever the principle of proportionality and the option of using alternatives to conviction and punishment, and it endorsed measures aimed primarily at reducing the negative health and social consequences of drug abuse.

38. The outcome document also recognized that the three international drug control conventions "allow for sufficient flexibility for States parties to design and implement national drug policies according to their priorities and needs". At the same time, it confirmed the essential provision of the conventions to restrict the use of psychoactive substances to medical and scientific purposes, thus not authorizing regulations legalizing the non-medical use of drugs which had been adopted in some Member States.

39. In the Political Declaration of 2009, a 10-year period was set for reviewing its goals. Accordingly, a ministerial segment was convened in 2019 to take stock of the implementation of the commitments made and to pave the way for the next decade. With the outcome document adopted in 2016, Member States felt that a new political declaration was not necessary. They committed to accelerating the full implementation of the Political Declaration and Plan of Action adopted in 2009, the Joint Ministerial Statement of 2014[14] and the outcome document of the special session of the General Assembly held in 2016, aimed at achieving all commitments, operational recommendations and aspirational goals set out therein.

[14]Ibid., *2014, Supplement* No. 8 (E/2014/28), chap. I, sect. C.

II. Status of adherence to the 1961 Convention and the 1971 Convention

Single Convention on Narcotic Drugs of 1961

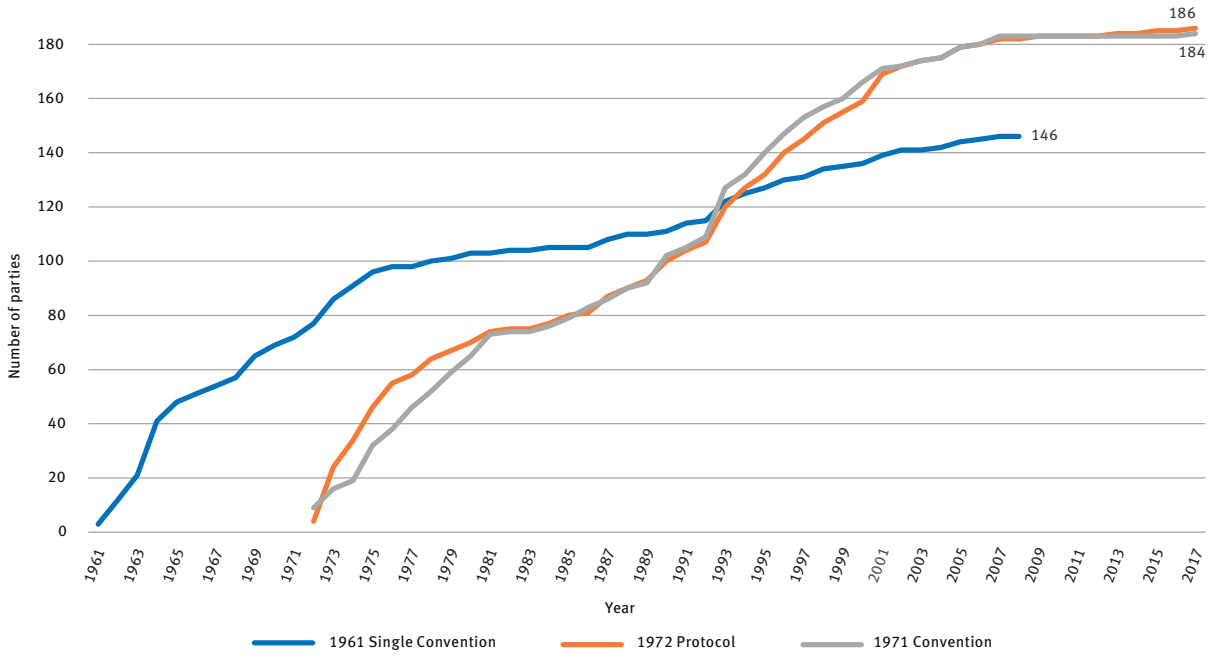
40. The Single Convention on Narcotic Drugs was adopted in New York on 30 March 1961. The Convention entered into force less than four years later, on 13 December 1964. The 1972 Protocol amending the 1961 Convention was adopted in Geneva on 25 March 1972 and introduced additional important elements of control, as well as obligations for Member States to take action to reduce the demand for illicit drugs, including the prevention of drug use and treatment and rehabilitation measures. As at 1 November 2020, 186 States are parties to the 1961 Convention as amended by the 1972 Protocol. In addition, one State (Chad) is party to the Convention in its original form. Of the 10 States that are not yet parties to the 1961 Convention, there are 2 in Africa, 1 in Asia, and 7 in Oceania.

Convention on Psychotropic Substances of 1971

41. The 1971 Convention was adopted in Vienna on 21 February 1971 and entered into force on 16 August 1976. As at 1 November 2020, 184 States are parties to the 1971 Convention. Of the 13 States that are not yet parties to the 1971 Convention, 3 are in Africa, 1 is in the Americas, 1 is in Asia and 8 are in Oceania.

42. The international control system for narcotic drugs and psychotropic substances can be considered one of the most important achievements in international cooperation. As shown in figure I, almost all States Members of the United Nations are parties to the two conventions (95 per cent for the 1961 Convention and 93 per cent for the 1971 Convention, representing some 99 per cent of the world's population).

Figure I. Ratification of the 1961 Convention, the 1972 Protocol and the 1971 Convention



III. Ensuring the availability of internationally controlled substances for medical and scientific purposes

43. With the concern over the health and welfare of humankind, the conventions underline that the medical use of controlled substances is indispensable for pain treatment and suffering and that provision must be made to ensure their availability. Those two fundamental principles were set forth in the 1961 Convention as amended. Later, in the 1971 Convention, it was recognized that psychotropic substances were also indispensable for medical and scientific purposes. In the 1971 Convention, the parties further agreed that the availability of such substances should not be unduly restricted.

44. Fifty and sixty years after their adoption, this essential element of the conventions is far from being achieved globally. Over the years, the Board has pointed out to Member States the lack of progress on this principal aim of the international drug control system.[15]

Narcotic drugs

45. Opioid analgesics, such as morphine, are indispensable for the treatment of pain caused by cancer, HIV/AIDS, cardiovascular disease, chronic respiratory disease, diabetes, childbirth, surgery, injuries and other conditions or situations. INCB estimates that 92 per cent of morphine is consumed in countries in which only 17 per cent of the world population lives (United States of America, Canada, countries in Western Europe, Australia and New Zealand). At the same time, 75 per cent of the world population, predominantly in low- and middle-income countries, has limited or no access to proper pain relief. The increase in global consumption of opioid analgesics since 1991 seems to have been driven mainly by North America, Europe, Australia and New Zealand, where there has been growing concern about prescription drug abuse (see map).

46. In relation to narcotic drugs, specifically opioid analgesics, the most recent data and analysis highlight the following issues:

(a) Even with the global increase in the availability of opioid analgesics, the disparity and imbalance in access to them remain evident;

(b) The increase in the use of synthetic opioids in several high-income countries, which is associated with overconsumption and an overdose crisis in some countries, has not been matched by an increase in the use of affordable morphine in low- and middle-income countries;

(c) Most of the morphine available is not utilized by pharmaceutical companies to prepare morphine preparations for palliative care, but rather to produce codeine-based cough syrups. This reduces the overall amount available for pain treatment and palliative care. The

[15] In 2010, INCB launched a report entitled *Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes* (E/INCB/2010/1/Supp.1), which contained an analysis of the global situation with regard to the consumption of internationally controlled substances. Similar reports had been produced in 1989 and 1995. In 2010, the scope of the report was broadened to include psychotropic substances. In 2016, INCB published a supplement to its annual report for 2015 entitled *Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes – Indispensable, Adequately Available and Not Unduly Restricted* (E/INCB/2015/1/Supp.1). On the basis of the analysis and recommendations presented by INCB in the above-mentioned supplement, the international community recognized the seriousness of the situation and, at the thirtieth special session of the General Assembly, held in 2016, Member States adopted an outcome document entitled "Our joint commitment to effectively addressing and countering the world drug problem". Following up on the progress made in the implementation of those recommendations, in 2018, INCB sent a questionnaire to competent national authorities and also sought the opinions of civil society organizations and produced a report entitled *Progress in Ensuring Adequate Access to Internationally Controlled Substances for Medical and Scientific Purposes* (E/INCB/2018/1/Supp.1).

demand in health services for pain treatment, in particular in low- and middle-income countries, remains low due to fear of dependence, a lack of training among health personnel and a lack of awareness among patients and families, and that lack of demand for pain treatment is exacerbated by supply problems.

Psychotropic substances

47. Insufficient or inadequate access to psychotropic substances seems to be particularly pronounced in low- and middle-income countries, where it is estimated that about four out of five people who need mental, neurological or substance abuse treatment do not receive such treatment.

48. In relation to psychotropic substances, the most recent data and analysis highlight the following issues:

(a) Despite an increasing number of people living with anxiety disorders and epilepsy around the globe, in the majority of countries for which data on the consumption of psychotropic substances were provided to INCB, the availability of some essential psychotropic substances for consumption in the treatment of those conditions has declined since 2012;

(b) While 80 per cent of people with epilepsy live in low- and middle-income countries, their levels of consumption of certain related psychotropic drugs remain largely unknown. The limited data submitted to INCB, however, suggest that the consumption of psychotropic substances is concentrated in high-income countries;

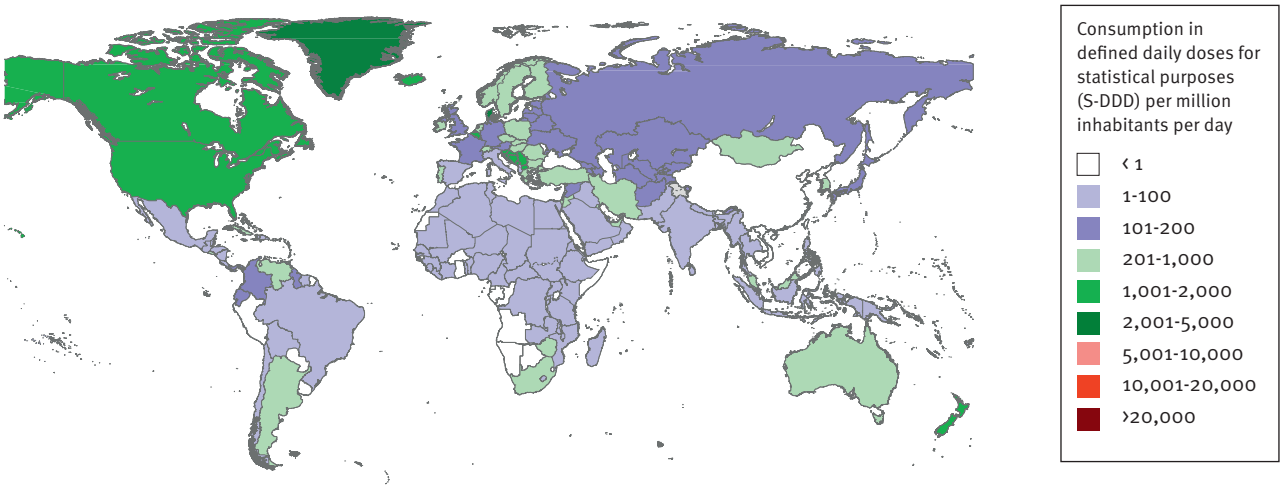
(c) The difference between the countries with the highest and lowest reported consumption rates widened between 2012 and 2016, confirming the growing global consumption gap.

Availability of internationally controlled drugs for the treatment of opioid dependence

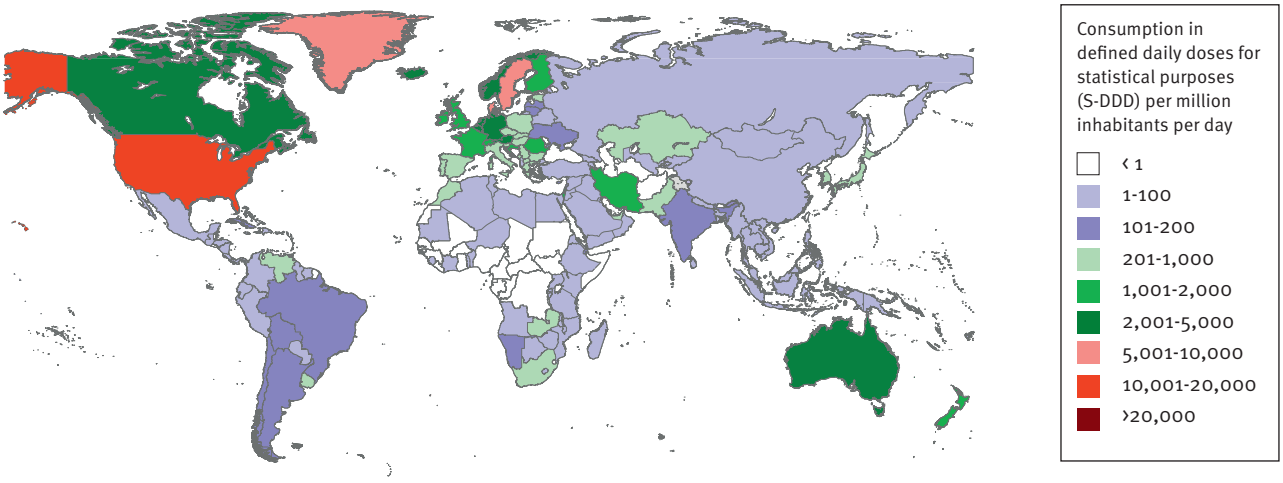
49. An analysis of levels of consumption of methadone and buprenorphine, as well as medication-assisted treatment services for opioid dependence, indicates that those services are either not accessible or not sufficiently accessible in all countries where there is a significant prevalence of people who inject drugs. This can be due to non-recognition of the effectiveness of such services, cultural resistance, economic or structural incapacity and/or political inaction.

Map 1. Availability of opioids for consumption for pain management, 1977–1979, 1997–1999 and 2017–2019 averages

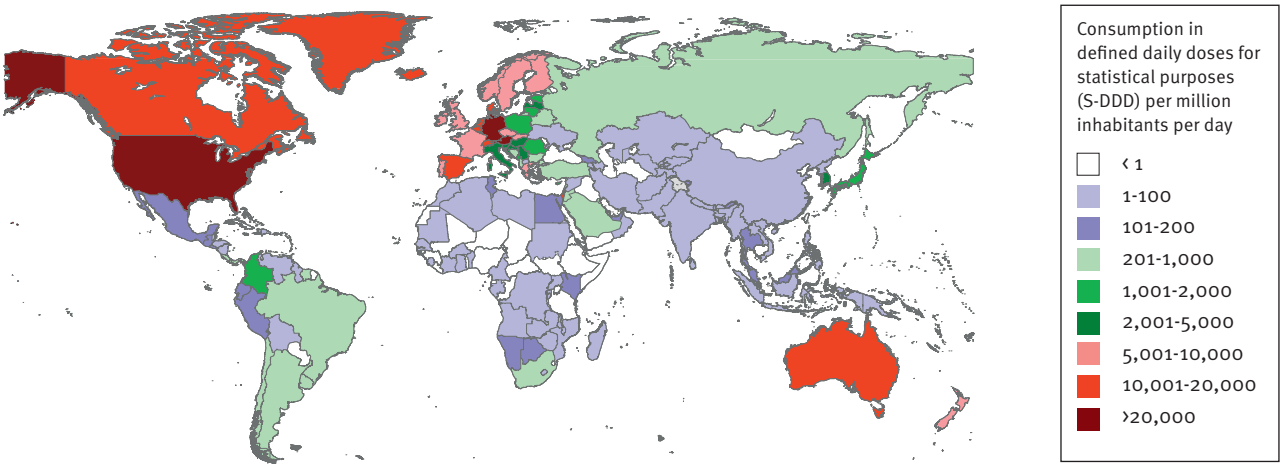
Mean availability of opioids for pain management, 1977–1979



Mean availability of opioids for pain management, 1997–1999



Mean availability of opioids for pain management, 2017–2019



The boundaries and names shown and the designations used on these maps do not imply official endorsement or acceptance by the United Nations. The final boundary between the Sudan and South Sudan has not yet been determined. The dotted line represents approximately the Line of Control in Jammu and Kashmir agreed upon by India and Pakistan. The final status of Jammu and Kashmir has not yet been agreed upon by the parties. A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas).

Source: International Narcotics Control Board

IV. Measures against the abuse of drugs

50. 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). Those articles stipulate the legal obligation of States to take all practicable measures for the prevention of drug abuse and for the early identification, treatment, education, after-care, rehabilitation and social integration of the persons involved. In the same provision, the importance of promoting both personnel training and awareness campaigns is underlined. In the Commentary on the *Protocol Amending the Single Convention on Narcotic Drugs, 1961*,[16] it is explained that article 38 reflected the general acceptance of the view that a system of administrative controls and penal sanctions for the purpose of keeping narcotic drugs and psychotropic substances from actual or potential victims was not sufficient. In the Political Declaration and Plan of Action of 2009, Member States reiterated their commitment to promote and develop prevention and treatment services that were found to be effective and cost-effective on the basis of scientific evidence.

51. In this area, the Board has recommended that countries implement policies and approaches based on scientific evidence, such as those presented by the United Nations Office on Drugs and Crime and WHO in the *International Standards on Drug Use Prevention* and the *International Standards for the Treatment of Drug Use Disorders*.

[16]United Nations publication, Sales No. E.76.XI.6.

V. Functioning of the system

A. Scheduling and changes in the scope of control

52. Scheduling decisions are made by the Commission on Narcotic Drugs, pursuant to article 3 of the 1961 Convention and article 2 of the 1971 Convention, following a scientific review and recommendations by WHO. The initiative to schedule a substance is taken either by a State party to one of the conventions or by WHO on the basis of information relating to a substance not yet under international control that, in its opinion, may require the amendment of any of the schedules.

Narcotic drugs

53. The drugs controlled under the 1961 Convention are listed in Schedule I or II, depending on the relationship between their therapeutic utility and liability to abuse. The control provisions for drugs in Schedule I constitute the standard regime under the 1961 Convention, while Schedule II consists of drugs that are considered to be less liable to abuse and are more widely used in medicine. In addition, Schedule III covers preparations of drugs in Schedules I and II that are intended for legitimate medical use, and Schedule IV contains selected drugs from Schedule I that are considered to have particularly dangerous properties and limited or no therapeutic use.

54. A total of 136 drugs are included in the schedules to the 1961 Convention (see figure II). In addition to the itemized substances, control is extended to the isomers, ethers, esters and salts, as well as all isotopic forms, of internationally controlled narcotic drugs. Following a period of relative inactivity during the 2000s and early 2010s, scheduling activity has increased since 2015, and most newly scheduled drugs under the 1961 Convention concern the emergence of synthetic opioids, most of them related to fentanyl.

Figure II. Increase in the number of drugs controlled under the 1961 Convention, 2006–2020

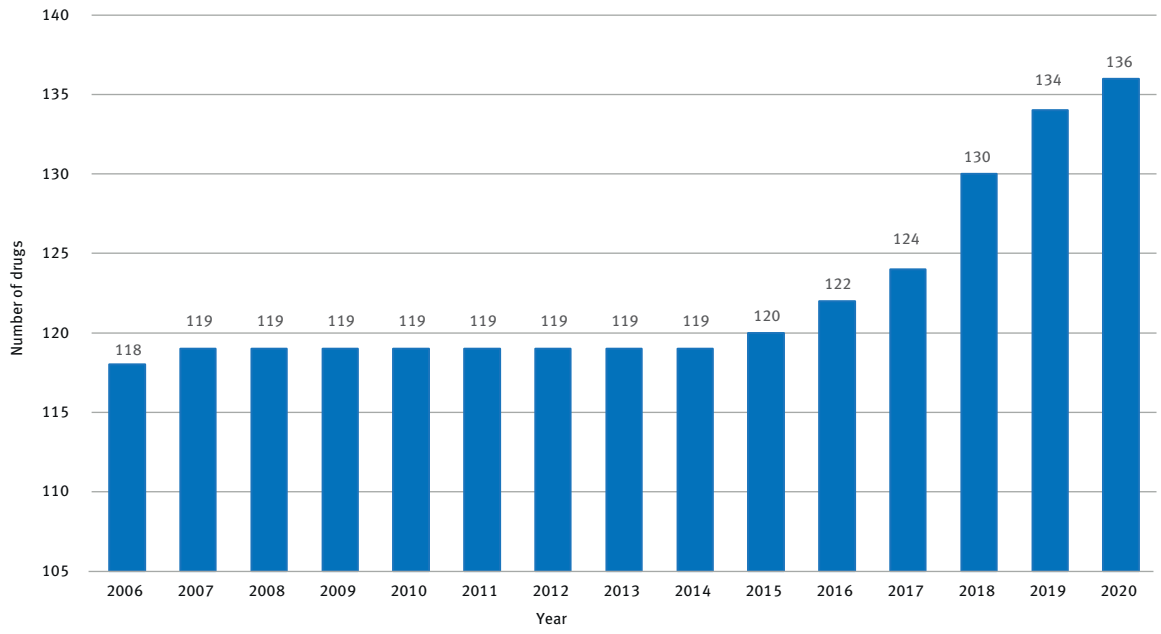
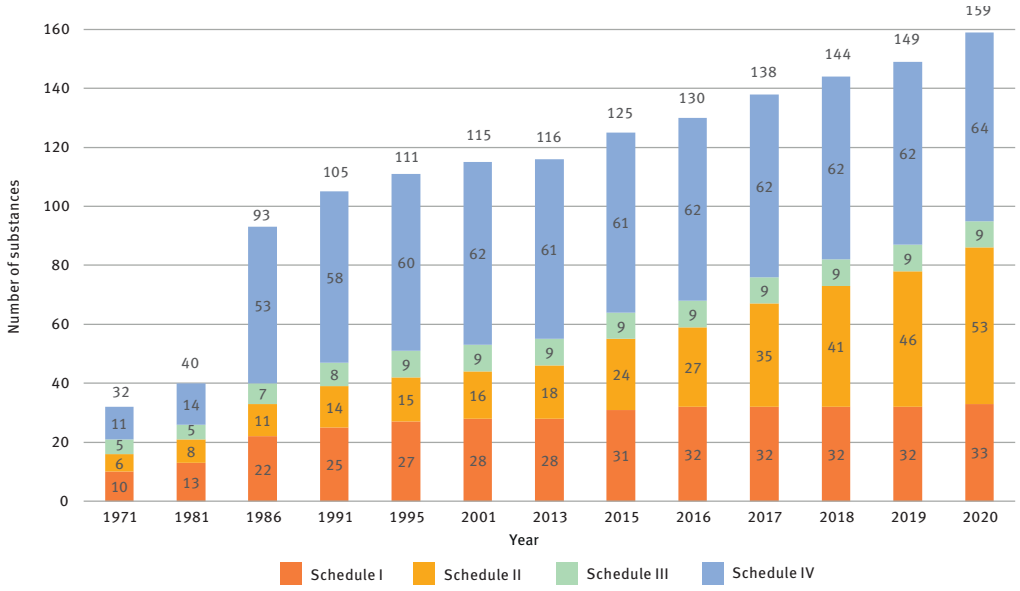


Figure III. Number of substances controlled under the 1971 Convention, 1971–2020, selected years



Psychotropic substances

55. When the 1971 Convention was signed, 32 psychotropic substances were under control. Five decades later, that number has reached 159, with most increases concerning Schedule II and Schedule IV substances. The emergence of new psychoactive substances has increased the frequency with which substances have been placed under international control by the Commission on Narcotic Drugs since 2013 (see figure III).

56. In that regard, many new psychoactive substances have been placed under control in recent years, in Schedules I and II of the 1971 Convention. As with all other psychotropic substances under international control, the Board also monitors licit activity involving new psychoactive substances. However, such activity has been minimal.

B. Estimates and assessments

Estimates of narcotic drug requirements

57. The system of estimating annual requirements for narcotic drugs dates back to the times of the League of Nations. The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed at Geneva on 13 July 1931, limited the worldwide manufacture of narcotic drugs to the amounts needed for medical and scientific purposes by introducing a mandatory system of estimates.

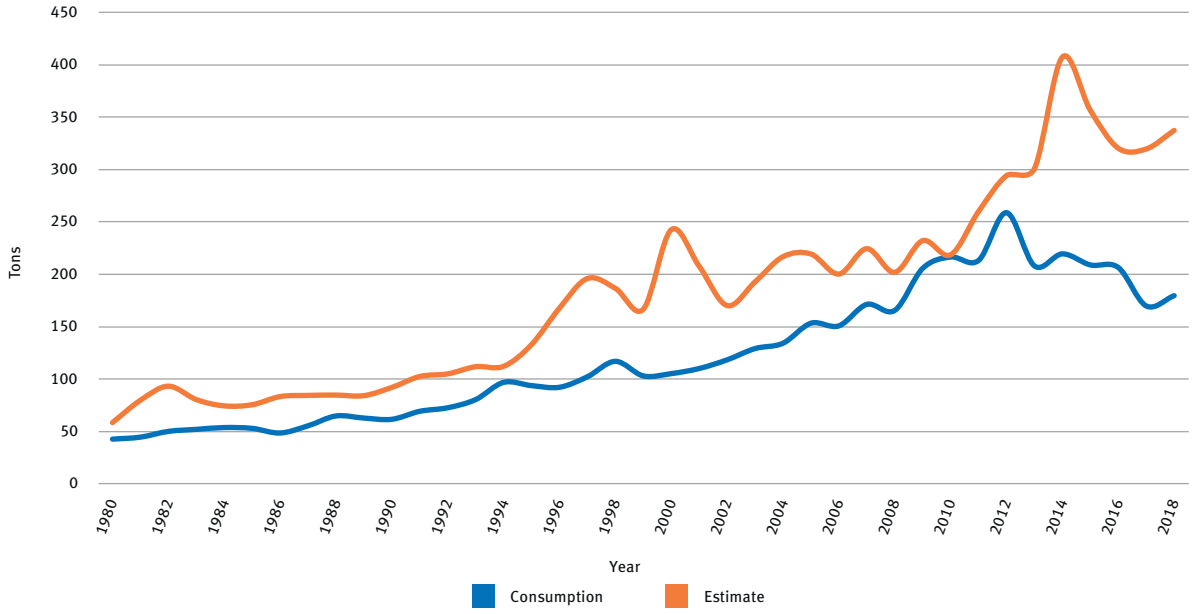
58. When the 1961 Convention was adopted, the estimates system was retained; it includes an obligation for States to submit annual estimates for narcotic drugs in Schedules I and II, which are subject to confirmation by the Board.

59. Most Governments comply with this treaty obligation, and annual estimates of narcotic drug requirements for 2020 were furnished by 185 States and territories. Of the 10 non-parties to the 1961 Convention, 8 have submitted at least one annual estimate over the past 10 years, showing high acceptance and willingness to comply with treaty provisions.

60. For those countries that do not submit such annual estimates, the 1961 Convention provides for the Board to establish estimates to ensure that countries and territories unable to provide their own estimates can still import narcotic drugs for medical purposes.

61. The data reported by Governments shows that the setting of higher estimates alone will not lead to increased consumption. An analysis of global data for the past 38 years illustrates that consumption estimates for the most widely used narcotic drugs for pain management purposes have exceeded reported consumption every year since 1980 (see figure IV). Therefore, action to improve the availability of these drugs for medical and scientific purposes should be part of nation-wide coordinated efforts involving all relevant authorities and policymakers to bring improvement and to be able to provide the needed quantities of narcotic drugs in all parts of the country. The flexibility of the estimates system, which allows for supplementary estimates to be submitted to the Board throughout the year, ensures that increases rooted in additional medical demand can be imported expeditiously.

Figure IV. Consumption estimate versus consumption of selected opioids,[a] 1980–2018



[a]Codeine, dextropropoxyphene, dihydrocodeine, fentanyl, hydrocodone, hydromorphone, ketobemidone, morphine, oxycodone, pethidine, tilidine, trimeperidine.

Assessments for psychotropic substances

62. The control system provided for in the 1971 Convention is based largely on the system devised for narcotic drugs under the 1961 Convention. However, at the end of the 1960s, when the 1971 Convention was drafted, it was considered that the estimate system applied to narcotic drugs was not what was needed for psychotropic substances.

63. In the late 1970s and early 1980s, attempts to divert large quantities of psychotropic substances in Schedule II of the 1971 Convention were facilitated by means of forged or counterfeit import authorizations. The lack of information available to exporting countries as to the legitimate requirements for psychotropic substances in importing countries hampered efforts to detect illegal import documents. Therefore, INCB proposed additional control measures, which were then endorsed by the Economic and Social Council in its resolution 1981/7 of 6 May 1981, in which the Council invited Governments to provide the Board with assessments of their annual medical and scientific requirements for substances in Schedule II. Furthermore, Governments were requested to furnish the Board with quarterly statistics on trade in those substances.

64. Today, more than 170 Governments regularly provide the Board with an assessment of their actual requirements of psychotropic substances for medical and scientific purposes. Some Governments furnish this information on a yearly basis. Other Governments submit only necessary modifications to previous assessments at any time. Throughout the years, Governments continue to provide the Board with updated or modified assessments for all psychotropic substances currently used in their countries.

65. When it is adhered to by national competent authorities, the system of assessments is an important control measure for international trade in psychotropic substances and has been successful in preventing the diversion of these substances. Diversion of legitimately manufactured psychotropic substances has already been significantly reduced because the authorities of exporting countries can now easily check whether the amount to be exported tallies with the current needs of importing countries.

C. Statistics on production, manufacture, stocks and consumption

Narcotic drugs

66. The 1961 Convention requires Governments to submit annual and quarterly statistics on the production, manufacture, utilization, import and export of narcotic drugs. The past 60 years of growth and transformation of commercial practices is reflected in the reported data, which show levels that have strongly trended upwards. Most Governments have cooperated with the provisions of the Convention and their obligation to submit data and information. The rate of submission of data has remained

high, with at least 75 per cent of Governments providing treaty-mandated information.

67. Annual statistics on the manufacture, utilization, consumption and stocks of narcotic drugs are received from at least 175 Governments; the highest number received was recorded for 2016, when 181 Governments submitted such data. Between 170 and 180 Governments submit a full set of quarterly statistics on the import and export of narcotic drugs in a given year, information that is mandatory under the 1961 Convention, and an additional 30 Governments supply at least partial records. The submission record is higher for major manufacturing, trading and importing countries, which consistently supply data. The high submission rates show the commitment of Governments to cooperate with the Board and ensure the continued functioning of the international drug control system.

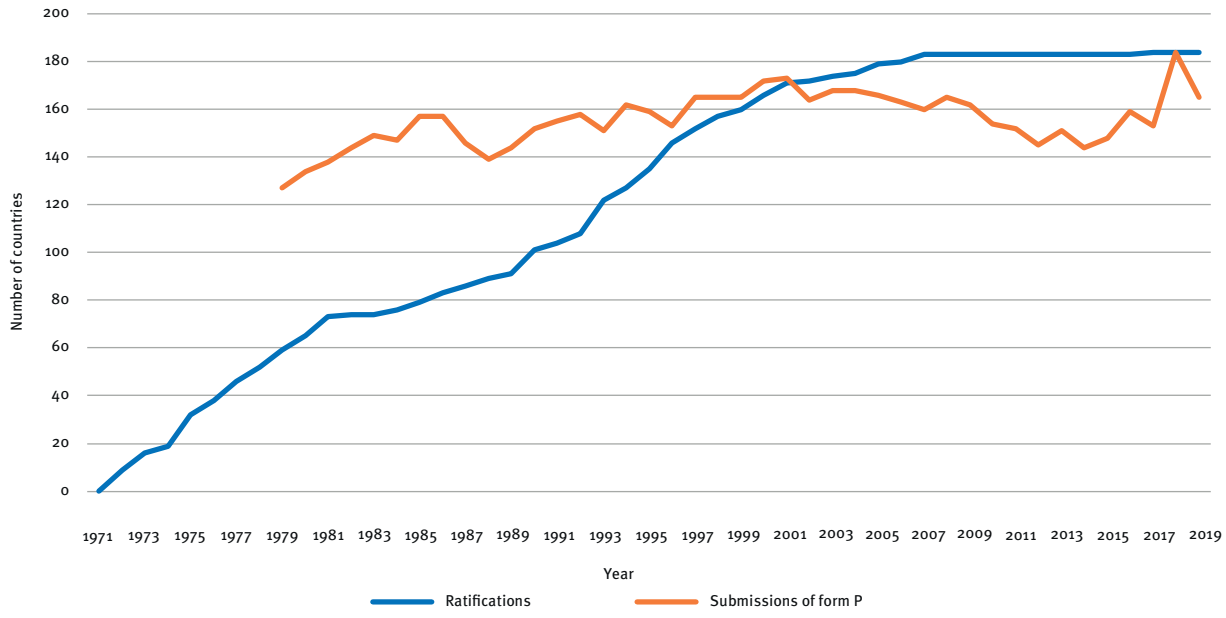
Psychotropic substances

68. In accordance with article 16, paragraph 6, of the 1971 Convention, in 1979, the Board drew up a questionnaire (form P) and invited Governments to furnish the annual statistical information called for under paragraph 4 of article 16. This statistical reporting pillar is a key mechanism for ensuring international control. The first technical publication on psychotropic substances was published in 1977, prepared on the basis of the data received from 115 countries and territories.

69. A review of submission data for 1980 shows the early commitment of Member States to the international control of psychotropic substances. At the end of 1980, only 68 countries and territories were party to the 1971 Convention. Nonetheless, for that reporting year the Board received a form P from 134 countries and territories. By the end of 1990, the total number of countries and territories that were party to the Convention had risen to 107. Again, although many countries and territories were not yet party to the 1971 Convention, the Board received a form P from 152 countries and territories (see figure V).

70. By the turn of the millennium, a large majority of the States Members of the United Nations –166 countries and 15 territories – were party to the 1971 Convention. In 2000, 158 countries and 14 territories provided a form P. Although not all countries and territories that were party to the Convention provided the necessary statistical report that year, all major manufacturing and trading countries involved in the licit market for internationally controlled psychotropic substances provided reports.

Figure V. Ratification of the Convention on Psychotropic Substances of 1971 and the rate of submission of annual statistics (form P)



Note: As the 1971 Convention did not enter into force until 1976 and the Board was able to establish the modality for submission (form P) only afterwards, countries and territories were able to provide statistical reports only beginning in 1979. The submission lines include territories that are also obligated to comply with the Convention.

71. From the late 2000s through most of the 2010s, the reporting rate by States parties overall remained steady with some variation from year to year. However, during that period no fewer than three quarters of the countries and territories required to provide an annual statistical report did so in any given year. A new milestone was reached when form P was submitted by 184 countries and territories for 2018, the most ever received for a single year since the adoption of the 1971 Convention (see figure V).

72. Even though the reporting regime for internationally controlled psychotropic substances is not entirely codified in the 1971 Convention, what is notable is that most countries voluntarily provide the data requested in the relevant resolutions of the Economic and Social Council and the Commission on Narcotic Drugs, in addition to the data required under the Convention. While some data gaps remain to this day, in particular relating to consumption data, the high rate of compliance by States parties has enabled the Board to closely monitor licit trade of psychotropic substances since the introduction of the 1971 Convention, and it clearly reflects the international community's commitment to effectively controlling trade in these substances.

D. Trade

73. The growth of international trade in recent decades also encompasses trade in narcotic drugs, which are now frequently transported across international borders. Since 1980, the number of export transactions reported to the Board has multiplied and continues to trend upwards. At the same time, the number of discrepancies has remained largely stable. Trade discrepancies are identified by the Board in its analysis of global import and export transactions that are reported by Governments on a quarterly basis. These inconsistencies are subsequently raised with the Governments concerned. Little or no diversion of narcotic drugs from licit trade to illicit trafficking has been identified over the past five years, showing the robustness of the control system in place.

74. As with narcotic drugs, the volume of trade in psychotropic substances has grown substantially since 1984. Despite that, the annual discrepancies in international trade have largely remained unchanged as the proportion of discrepancies in volume of trade relative to the total volume of imports of psychotropic substances has continued to shrink over the past three decades. This not only demonstrates the effect of the control system established pursuant to the 1971 Convention but also shows that Governments are continuously improving the quality of the data that they provide to the Board. As with narcotic drugs, discrepancies in the trade of psychotropic substances are identified by the Board and raised with the Governments concerned in order to identify potential diversions from international trade and/or shortcomings in the national administrative mechanisms.

Figure VI. Number of trade transactions and discrepancies of narcotic drugs, 1980–2018

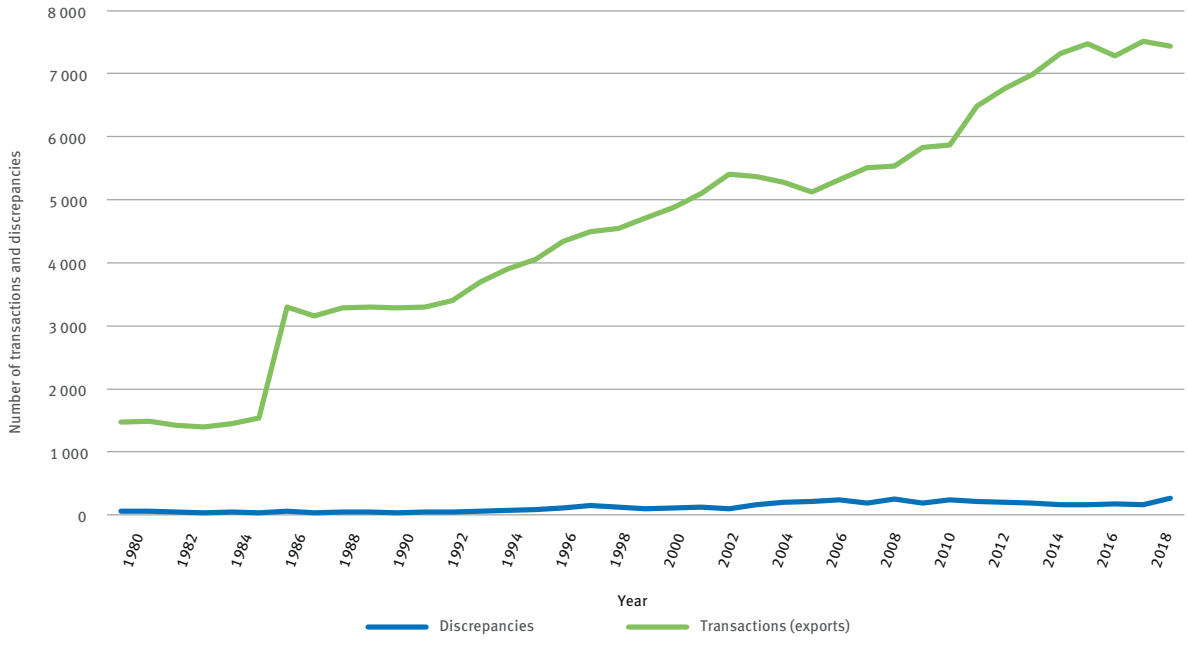
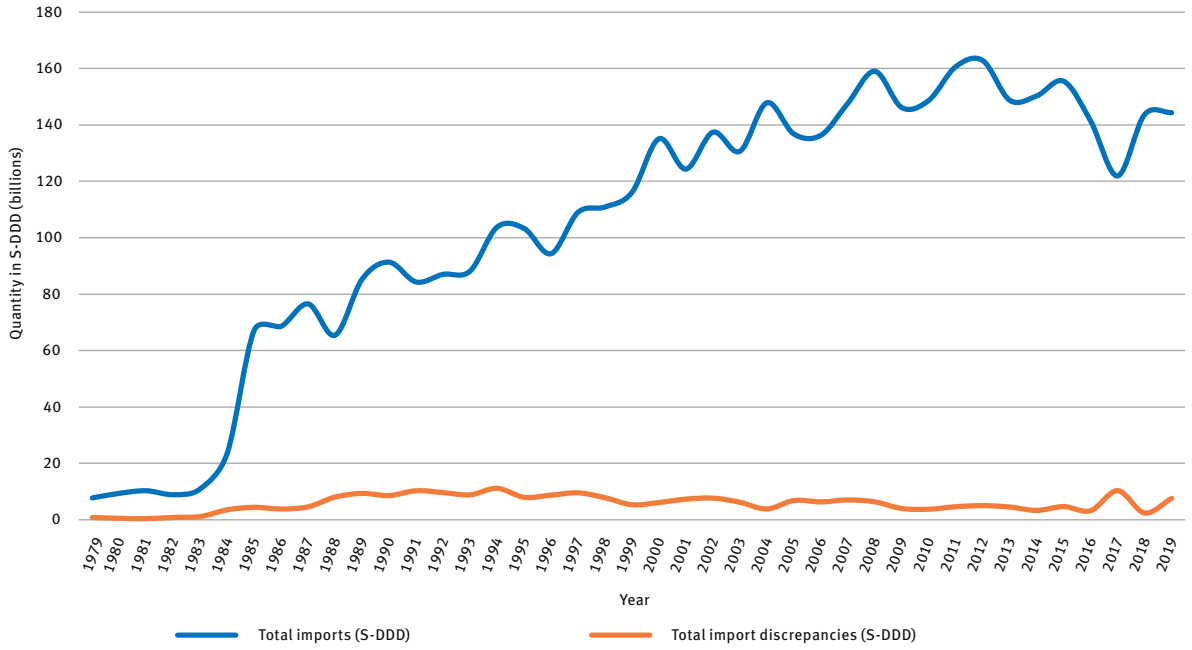


Figure VII. Total annual discrepancies of psychotropic substances compared with total annual imports of psychotropic substances, in billions of S-DDD,[a] 1979–2019



[a]In the case of psychotropic substances, given the different reporting requirements, imports expressed in S-DDD are used to measure trade, instead of the number of transactions.

75. It is essential to have timely and accurate statistics on trade to continue the effective monitoring of the international movement of narcotic drugs and psychotropic substances and prevent diversion and abuse. Progress has been made with the International Import and Export Authorization System (I2ES), a web-based electronic system developed by the Board, designed to promote paperless trade in internationally controlled substances by facilitating the online exchange of import and export authorizations. Available to all Governments at no cost, I2ES serves as a safe and secure platform for generating and exchanging import and export authorizations between trading countries while ensuring full compliance with all provisions of the 1961 Convention as amended and the 1971 Convention. The system helps competent national authorities to reduce errors in data entry and save time and communication costs.

76. As at 1 November 2020, nearly six years after the launch of I2ES, the Board notes that 87 Governments have registered with I2ES, of which 68 Governments have an active administrator account, an increase of 36 per cent compared with the previous year. Of those countries with an active account, approximately one third entered data in the system in 2020.

VI. The role of the Board in monitoring compliance and ensuring the execution of the provisions of the 1961 Convention and the 1971 Convention

77. As part of its treaty monitoring functions, the Board continuously reviews implementation of the international drug control conventions by States parties. The Board examines developments in the drug control field in States parties in order to identify areas which may require increased dialogue or possible remedial actions. When shortcomings are noted, the Board, through close collaboration with Governments, identifies and recommends specific good practices and measures that can be implemented with a view to improving compliance with the international drug control treaties.

78. States parties to the international drug control conventions have a substantial level of discretion when engaging in domestic drug policy actions. Although the legislative and policy choices made in implementing the treaty obligations can vary widely, the Board notes that these policy choices should adhere to the provisions of the treaties and the international drug control system. For example, the States parties must limit the use of narcotic drugs and psychotropic substances exclusively to medical and scientific purposes and adopt policies that respect human rights and safeguard the health of humanity.

79. The Board periodically undertakes country missions to monitor compliance with the international drug control treaties and promote effective implementation of those treaties. During these country missions, the Board discusses with relevant national authorities of the countries hosting the mission the legislative, institutional and practical measures implemented at the national level in the areas of licit manufacture of and trade in controlled substances with a view to facilitating the availability of those substances for medical and scientific purposes while preventing their diversion into illicit channels. The Board also engages with the countries visited in dialogue on national mechanisms for preventing and addressing the illicit manufacture, trafficking and abuse of narcotic drugs and psychotropic substances.

80. Based on the results of carrying out those treaty-monitoring functions, the Board adopts recommendations that are communicated confidentially to the Governments in question. These recommendations propose measures aimed at improving compliance of national drug control systems with the international drug control conventions.

81. Article 14 of the 1961 Convention as amended and article 19 of the 1971 Convention provide for a mechanism which the Board may use to ensure the execution by States parties of the provisions of those conventions. The provision contains sequential measures which the Board may take to achieve this. Under article 14, paragraph 1 *(d)*, of the 1961 Convention, where the Board finds that the Government concerned has failed to give satisfactory explanations or failed to adopt remedial measures proposed by the Board, or where the Board is of the view that there is a serious situation that needs cooperative action at the international level, it may call the attention of the parties, the Economic and Social Council and the Commission on Narcotic Drugs to the matter.[17] Pursuant to article 14, paragraph 3, of the 1961 Convention, the Board has a right to publish a report on a matter dealt with under article 14 and communicate it to the Council. A similar procedure is described in article 19 of the 1971 Convention.

[17] See article 14, paragraph 1*(d)*, of the 1961 Convention.

82. The procedure under article 14 of the 1961 Convention and article 19 of the 1971 Convention is considered to be of a confidential nature. The dialogue and communications between the Board and the relevant party pursuant to those articles would need to be considered confidential until the Board decides to call the attention of the parties, the Council and the Commission to the matter.

83. During the past 50 and 60 years, of the two conventions, article 14 of the 1961 Convention has been invoked in only a few instances, and the issues of concern were resolved in the confidential dialogue as required, without the need to bring the matter to the attention of the parties, the Council and the Commission.

84. The Board formally invoked article 14 of the 1961 Convention with respect to Afghanistan in May 2000 and made a public pronouncement about it because it was necessary to bring to the attention of the international community the fact that the country's failure to carry out the Convention's provisions (in this case, the eradication of illicit opium poppy cultivation) seriously endangered the aims of the Convention. Discussions were held with the Taliban authorities in Kabul and with the Northern Alliance. Three months after the invoking of article 14, the Taliban announced a total ban on opium poppy cultivation, which led to a sharp decline in the cultivation of opium poppy for the 2000/01 growing season in most areas controlled by them. Since then, the situation in Afghanistan has deteriorated despite the efforts made by the international community, and in 2019 INCB invoked article 14 bis of the 1961 Convention as a serious call for urgent support from the international community.

VII. Penal provisions

85. The respect for human rights is a precondition for the development and implementation of effective drug control policy. 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", Member States reaffirmed the need to support countries in the implementation of the international drug control treaties in full conformity with the purposes and the principles of the Charter of the United Nations, international law and the Universal Declaration of Human Rights and, inter alia, all human rights, fundamental freedoms and the inherent dignity of all individuals.

86. Both the 1961 Single Convention as amended and the 1971 Convention oblige States parties to take legislative and administrative measures to ensure that substances scheduled under those two conventions are being used exclusively for medical and scientific purposes. To combat drug trafficking and related conduct, States parties are required to take measures to establish certain drug-related activities as criminal offences to the extent that such measures are not inconsistent with a State party's constitutional limitations. In addition, when drug users have committed such offences, States parties may provide, either as an alternative to conviction or punishment or in addition to punishment, that they undergo measures of treatment, education, aftercare, rehabilitation and social reintegration.

87. As with other international treaties, the choice of policy, legislative and administrative measures to implement them is left to the discretion of Governments within the limits set by the conventions, which do not specify what precise procedure or process each party should follow, or what penalty, sanction or alternative to apply to an offender in a particular case. Provided the aims and requirements of the conventions are met, States can generally use their own processes and procedures and apply the different penalties, sanctions and alternatives that they determine – according to their systems and the facts and circumstances of each case. Each State can apply more strict or severe measures if it considers them desirable or necessary for the protection of public health and welfare or for the prevention and suppression of illicit traffic.

88. There are wide differences between countries and regions in the degree of social and legal tolerance and the perception of and response to drug-related activity, resulting in various national approaches to the drug problem. The differences in national approaches flow from the different legal systems of the States parties and reflect the contribution of each country's culture and value system with respect to the concepts of crime, punishment, deterrence and rehabilitation.

89. Nevertheless, transposing the international drug control conventions into domestic law is subject to the internationally recognized principle of proportionality. This principle requires that a State's response to any harmful behaviour be proportionate. In a criminal justice sense, the principle permits punishment as an acceptable response to crime provided that it is not disproportionate to the seriousness of the crime and to the individual circumstances of each case, including whether the person in question is a drug user.

90. Over the past six decades, some State parties in various parts of the world have implemented measures associated with militarized law enforcement, disregard for human rights, overincarceration, the denial of medically appropriate treatment and inhumane or disproportionate approaches as part of the national drug control response. Such policies adopted in the name of, or under the guise of, drug policy have regrettably led to undesirable results and have had negative repercussions with respect to the stigmatization and marginalization of persons affected by drug use, or the violation of human rights. The Board has reiterated that if drug control measures adopted by States violate internationally recognized human rights, they also violate the international drug control conventions.

91. Furthermore, extrajudicial responses to drug-related criminality can never be justified under the international

drug control conventions, which require that drug-related crime be addressed through formal criminal justice responses, an approach that is consistent with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which require adherence to internationally recognized standards for due process. Additionally, there are still States that retain capital punishment for drug-related offences.

92. Human rights are inalienable and can never be relinquished. The Board notes with great concern the continued reports of grave human rights violations perpetrated in the name of drug control. The conventions provide States with the possibility of applying alternative measures to conviction, punishment and incarceration, including education, rehabilitation and social reintegration. If the drug control measures adopted by States violate internationally recognized human rights standards, they also violate the international drug control conventions. INCB once again calls for a halt to extrajudicial responses to drug-related offences.

93. The Board continues to urge all States that retain the death penalty for drug-related offences to consider abolishing such penalties and to commute sentences already handed down, in recognition of developments within the international community to abolish capital punishment for drug-related offences.

94. On the other hand, especially in recent years, many States have reassessed their criminal justice responses to drug-related offences, in particular with regard to offences of lesser gravity and those committed by persons affected by substance use disorder, and have adopted alternatives to conviction and punishment for drug-related offences of a lesser gravity, in line with the principle of proportionality and with article 36 of the 1961 Convention. This development has coincided with a conceptual shift which recognizes drug dependence as a chronic relapsing condition that can be prevented and treated and for which an overreliance on punitive measures may have significant human costs even while yielding limited results.

95. The Board has highlighted that non-custodial responses may not only alleviate the burden of incarceration on national prison systems but may also contribute to a more effective and long-term rehabilitation of persons affected by drug dependence by affording treatment opportunities over punishment, allowing them to work towards a life free of drug dependence and without the social stigma associated with imprisonment.

96. Due respect for universal human rights and the rule of law is crucial for effective implementation of the international drug control conventions. Non-respect for these can prejudice the ability of the criminal justice system to enforce the law, can lead to discriminatory and disproportionate responses to drug offending and, ultimately, undermines the global efforts to effectively address the world drug problem.

97. The Board will continue to underline that, in order to achieve the fundamental goal of the three international drug conventions – to safeguard the health and welfare of humankind by ensuring the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion and abuse – States parties have an obligation to provide responses to suspected drug-related criminality that are humane and proportionate as well as grounded in respect for human dignity, the presumption of innocence and the rule of law. States parties are strongly urged to abide by these principles, which emanate from the international drug control conventions and the consensus embodied in them.

VIII. Other provisions

98. There has been limited use of provisions such as amendments and denunciations. The option of expressing reservations has been used by a limited number of countries upon ratification.

Amendments, denunciation and reservations

99. In 2009, 2010 and 2011, the Plurinational State of Bolivia requested that article 49, paragraphs 1 *(c)* and 2 *(e)*, of the 1961 Convention be deleted in accordance with the procedures established in article 47 of the Convention. The proposal was rejected by at least one party to the Convention and did not enter into force. Article 30 of the 1971 Convention, also providing for amendments to the 1971 Convention, has never been used.

100. There has been only one case of denouncement of one of the conventions. On 29 June 2011, the Plurinational State of Bolivia notified the Secretary-General that it had decided to denounce the 1961 Convention. In accordance with article 46, paragraph 2, of the Convention, the denunciation took effect on 1 January 2012. Following denunciation, the country re-acceded to the Convention with a reservation. Article 29, on denunciation, of the 1971 Convention provides for a similar mechanism, but it has never been used.

Disputes

101. Article 48 of the 1961 Convention and article 31 of the 1971 Convention contain provisions for the resolutions of disputes that are often found in international legal instruments and provide for an amicable resolution of the matter and, if this is not possible, referral to the International Court of Justice for a decision. These articles have never been used.

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 2015[18] 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.

[18] E/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 fentanyls, 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 fentanyls 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.

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

X. Conclusions

128. The analysis presented above shows that, despite a number of challenges, the system of monitoring and control designed by the international community 50 and 60 years ago has performed relatively successfully over the years. However, there are still major challenges that need to be addressed and new developments that require Member States to take action.

129. States parties have made important strides towards a more cohesive and coherent drug control strategy as envisioned in the conventions. However, the evolving nature of this complex social problem requires that States be cognizant of the challenges and opportunities they face. The outcome document of the special session of the General Assembly on the world drug problem held in 2016 reaffirmed the commitment of States parties to drug control policies and practices grounded in evidence and science and provided further guidance in the operational recommendations on the important areas that require further concerted action. Member States further stated that tackling the world drug problem was a common and shared responsibility that should be addressed through greater and more effective international cooperation and that the drug issue demanded an integrated, multidisciplinary, mutually reinforcing and scientific evidence-based approach.

130. The international drug control system, as established by the conventions and built upon by the relevant political declarations, provides a comprehensive and cohesive framework that can be effective only if States fulfil their treaty obligations, taking into account their domestic situation, including the realities of drug supply and demand, the capacity of State institutions, social considerations and the scientific evidence of the effectiveness of existing and future policy options.

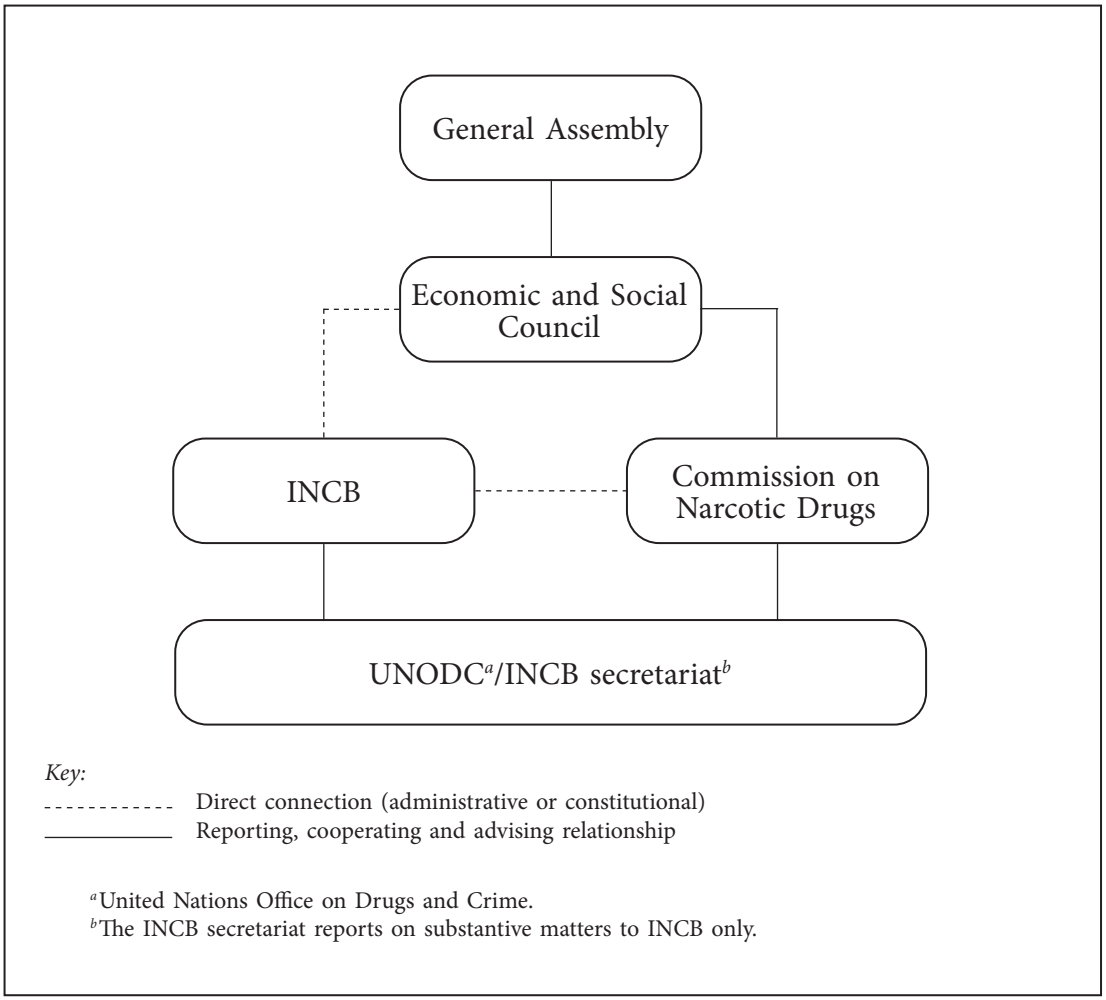
131. The normative drug control framework as it has been developed during the past 60 years is a complex system. It is part of the larger context of the international human rights instruments because it strives to promote health and welfare of humankind. It cannot be considered – as some critics claim – simply a prohibitionist system. Rather, it is a comprehensive, multisectoral, integrated and balanced system, focusing on health and welfare and grounded on respect for human rights and the principle of proportionality.

132. During the past 20 years, policies addressing the drug problem have changed the world over: historically, drug control and treaty implementation efforts focused on supply reduction. But more recently, there has been growing recognition of the importance of implementing the treaties in a comprehensive, integrated and balanced manner and of putting public health at the centre of policy.

133. It is a fact that policies in some countries often disregard the goals and principles of the drug control framework. Policies which are associated with militarized law enforcement, disregard for human rights, overincarceration, the denial of medically appropriate treatment and inhumane or disproportionate approaches are not in accordance with the principles of the conventions and the political declarations.

134. There are new challenges arising, such as new psychoactive substances and those posed by the Internet, and other challenges as mentioned above, which were not yet known when the 1961 Convention and the 1971 Convention were adopted. The international community must find the responses to tackle those challenges within the present normative drug control system and/or by creating new normative tools and instruments and possible additional voluntary ways of international collaboration.

United Nations system and drug control organs and their secretariat



INTERNATIONAL NARCOTICS CONTROL BOARD

The International Narcotics Control Board (INCB) is the independent monitoring body for the implementation of United Nations international drug control conventions. It was established in 1968 in accordance with the Single Convention on Narcotic Drugs, 1961. It had predecessors under the former drug control treaties as far back as the time of the League of Nations.

Based on its activities, INCB publishes an annual report that is submitted to the United Nations Economic and Social Council through the Commission on Narcotic Drugs. The report provides a comprehensive survey of the drug control situation in various parts of the world. As an impartial body, INCB tries to identify and predict dangerous trends and suggests necessary measures to be taken.

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