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INTERNATIONAL NARCOTICS CONTROL BOARD
Vienna

EFFECTIVENESS OF THE INTERNATIONAL DRUG CONTROL TREATIES

**Supplement to the Report of the
International Narcotics Control Board
for 1994**



UNITED NATIONS

**REPORTS PUBLISHED BY THE INTERNATIONAL NARCOTICS
CONTROL BOARD IN 1994**

The *Report of the International Narcotics Control Board for 1994* (E/INCB/1994/1) is supplemented by the following technical reports:

Narcotic Drugs: Estimated World Requirements for 1995; Statistics for 1993 (E/INCB/1994/2)

Psychotropic Substances: Statistics for 1993; Assessments of Medical and Scientific Requirements for Substances in Schedules II, III and IV; Requirement of Import Authorizations for Substances in Schedules III and IV (E/INCB/1994/3)

Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 1994 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/INCB/1994/4)

This year, the Board has issued an additional supplement: *Effectiveness of the International Drug Control Treaties: Supplement to the Report of the International Narcotics Control Board for 1994* (E/INCB/1994/1/Supp.1). All of the above-mentioned reports are issued as United Nations sales publications.

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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UNITED NATIONS
New York, 1995

E/INCB/1994/1/Supp.1

UNITED NATIONS PUBLICATION
Sales No.: E.95.XI.5
ISBN 92-1-148095-7

Foreword

For centuries, drug abuse has been an international problem because it has not been possible to confine drugs to their places of origin. Modern methods of transport and communication have increased and facilitated the dissemination of all drugs of abuse, both licit and illicit. Although attention has tended to be focused on the illicit spread and use of heroin, cocaine and cannabis, there is also a vast global trade in legal, recreational drugs such as tobacco and alcohol, as well as in products such as tranquillizers and hypnotics, which have legitimate medical uses but which are also drugs of abuse and dependence.

The scale of global drug problems generated concern as long ago as 1909, when the first international conference on narcotic drugs was held at Shanghai. Since then, there has been an extensive international programme of legislation, more recently under the auspices of the United Nations; 12 multilateral drug control treaties were concluded between 1912 and 1972. The Single Convention on Narcotic Drugs of 1953, that Convention as amended by the 1972 Protocol, and the Convention on Psychotropic Substances of 1971 extended the drug control system to newer, synthetic psychoactive drugs. Those conventions are aimed at reducing drug abuse by controlling strictly the supply side of the drug economy: they license the production, manufacture, prescribing and storage of, as well as the domestic and international trade in, the substances covered so that legitimate trade and production are limited to the required amounts, and diversion into illicit channels is prevented. Although this sort of control is undoubtedly necessary, it has become apparent that controlling international supply is not a sufficient response and that prevention, or at least reduction, of the illicit demand for drugs of abuse is also essential. Those measures, although obligatory, are only dealt with in general terms in the conventions; it appears that Governments have, for a long time, paid less attention to them.

The urgent need for a policy of demand reduction has been accentuated by the arrival of acquired immunodeficiency syndrome (AIDS). Because there is no effective treatment for AIDS, and no vaccine against it, it poses a serious public health problem. Thus, for the first time, in many countries it is in the public interest to fight drug abuse using all available means. Previously, drug abuse and drug dependence had been perceived only as personal problems, the individual concerned being seen at best as an unfortunate victim and often, because of the perceived volitional component of drug-taking, as suffering the deserved consequences of earlier folly. Now, because of the threat to public health, there is far greater determination to attack drug dependence, and the political will to act against it has increased. That was reflected in the convening of the International Conference on Drug Abuse and Illicit Trafficking at Vienna in 1987. In addition to the traditional concern with controlling the drug supply and suppressing illicit traffic, the Conference had a much broader mandate: to intensify and extend the scope of international cooperation into new areas such as demand reduction and the treatment and rehabilitation of drug abusers.

The globalization of drug abuse, the expansion of illicit traffic and the growing ingenuity and power of organized criminal groups have been part of a trend that has lasted over two decades. The worldwide drug abuse and illicit trafficking situation, accompanied by violence and corruption, has led to a questioning of the validity and appropriateness of the internationally agreed conventions and resolutions on drug control.

The explanation for the global epidemic of drug abuse and related problems is not simple, but a few key factors can be identified. International travel is no longer only for a few privileged individuals; today, many different populations are in contact with each other. Although those contacts may have benefits they also bring problems such as the spread of drug abuse throughout

the world. The increase in other forms of global communication has also had an impact in recent years. The instantaneous reporting of events around the world through the mass media is the hallmark of modern times. That and a relaxation of traditional social and cultural constraints, an increased range of acceptable behaviour, and advances in technology, pharmacology and agriculture are among the many factors responsible for the ever-increasing drug abuse problems.

The last decade of the twentieth century poses great challenges to many societies and Governments. The development of effective drug control is one such challenge. Relations between countries have become closer. Many national economies and public administrations have undergone radical changes, adopting new philosophies and new ways of approaching problems. More recently, the changes following the end of the cold war, including the opening of international borders, together with the development of market economies and privatization in many countries, have increased drug trafficking activities and associated problems.

The International Narcotics Control Board and its predecessors were established to limit, in cooperation with Governments, the cultivation, production, manufacture and use of drugs to an adequate amount required for medical and scientific purposes and to ensure their availability for such purposes. The Board is thus the built-in monitoring instrument of the international drug control treaties.

Both the international drug control system and national drug policies have been subject to constant review and have been questioned in an increasing number of countries. On the one hand, this includes suggestions on how to better implement present strategies and instruments, as well as proposals to improve policies. On the other hand, there has been a complete rejection of the present system. The Board, in a process of continuous review, identifies and highlights new trends in drug abuse and illicit trafficking, persisting loopholes in national and international control systems, and various threats to the maintenance of adequate control safeguards, such as corruption.

The Board works in cooperation with Governments in attempting to prevent illicit drug cultivation, production, manufacture trafficking and use. It assesses the impact of the international drug control treaties with regard to the overall objective of curtailing illicit traffic and drug abuse. In doing so, the Board is determined not to shy away from highlighting, where necessary, the shortcomings of the present system. Over the years, the Board, making use of the experience it has gained in monitoring the control of narcotic drugs, psychotropic substances and precursors and the supply of and demand for drugs for medical purposes, has developed evaluation methods and techniques that enable it to analyse the world situation, as well as regional situations.

In recent years, the Board, in addition to analysing various trends in drug control policies and strategies, has each year chosen a topic to be discussed in chapter I of its annual report, in an attempt to shed light on certain issues. The legalization debate was covered in its report for 1992 and the importance of demand reduction was discussed in its report for 1993. The Board has decided to devote chapter I of its report for 1994 to an evaluation of the impact of the international drug control treaties. The General Assembly, in its resolution 48/12, requested the Commission on Narcotic Drugs to undertake, in cooperation with the Board and with the support of the United Nations International Drug Control Programme, an evaluation of action taken at the national and international levels in implementing the international drug control instruments. This is, therefore, an opportune moment for the Board to examine the issue in detail, pursuant to General Assembly resolution 48/12.

The evaluation of various aspects of the international drug control treaties and compliance by Governments is an ongoing process and an examination of the annual reports of the Board bears testimony to that. The present report refers to some of the major elements in those reports. It is a supplement to the report of the Board for 1994 and is summarized in chapter I of that report. The present report constitutes one of the responses to General Assembly resolution 48/12.

No attempt has been made to emphasize the many successes of the international drug control treaties; instead, the areas in need of strengthening are highlighted.

In the present report, some of the fundamental issues in relation to the success or failure of national and international policies and strategies and of the conventions are discussed. The report should be read together with the report of the Board for 1994 and the technical reports on narcotic drugs, psychotropic substances, and precursors and chemicals frequently used in the illicit manufacture of narcotic drugs and psychotropic substances.



Hamid Ghodse
President of the
International Narcotics Control Board

Contents

	<i>Paragraphs</i>	<i>Page</i>
Foreword		<i>iii</i>
Introduction	1-4	1
<i>Chapter</i>		
I. International Drug Control in response to the changing situation with regard to drug abuse and illicit trafficking	5-30	3
A. Continuing need for assessing drug abuse and for studying its relations to licit distribution and prescriptions systems	23-26	7
B. Strategies for ensuring an adequate supply of drugs used for medical and scientific purposes	27-29	7
C. Confirmation and strengthening of the international drug control system	30	8
II. Possible future adjustments in the international drug control treaties	31-98	9
A. Suggestions concerning the Single Convention on Narcotic Drugs of 1961	32-49	9
B. Suggestions concerning the Convention on Psychotropic Substances of 1971	50-74	12
C. Suggestions concerning the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988	75-98	16
III. Monitoring the implementation of the international drug control treaties	99-108	20
A. Measures to be taken by the International Narcotics Control Board to ensure the implementation of the international drug control treaties	99-101	20
B. Technical assistance	102-103	20
C. Importance of monitoring and promoting treaty implementation	104-105	21
D. Implementation of the international drug control treaties as regards sanctions for drug offences	106-108	21
IV. Conclusion	109-110	23

EXPLANATORY NOTES

The following abbreviations have been used in this report:

CICAD	Inter-American Drug Abuse Control Commission
LSD	lysergic acid diethylamide
THC	tetrahydrocannabinol
UNDCP	United Nations International Drug Control Programme
WHO	World Health Organization

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

INTRODUCTION

1. The mandate of the International Narcotics Control Board under the international drug control treaties, and the very essence of its work, is to evaluate treaty implementation, based on the examination and analysis of information provided by Governments and through its own continuous evaluation of their efforts. The General Assembly, in its resolution 48/12, requested the Commission on Narcotic Drugs, with the support of the United Nations International Drug Control Programme (UNDCP) and in cooperation with the Board, to monitor and evaluate action at the national and international levels in implementing the international drug control instruments, with a view to identifying areas of satisfactory progress and weakness. Thus, the Board has been working closely with Governments, the Commission and the Executive Director of UNDCP in evaluating the impact of the treaties and in determining weaknesses, as well as strengths, in their provisions.

2. The present report contains the findings of the Board with respect to the working of the treaties. Those findings are summarized in chapter I of its report for 1994.¹

3. The assessment made by the Board is based on several decades of continuous follow-up and evaluation of the implementation of the treaty provisions by the Board and its predecessors (the Permanent Central Opium Board, the Permanent Central Narcotics Board and the Drug Supervisory Body). In its assessment, the Board has placed special emphasis on the treaty provisions that it bears a particular responsibility to administer or for which its mandate places it in a unique position to determine their strengths or weaknesses. The Board also has taken into consideration the views expressed, at its invitation, by the World Health Organization (WHO). The assessment made by the Board should be considered together with those made by the Commission.

4. The Board has decided not to articulate all the achievements of the international drug control treaties in the present report. Instead, with a view to contributing to the further strengthening and improvement of the international drug control system, the Board has chosen to highlight a few major successes, as well as areas of weakness and shortcomings. Without going into all the technical details, the Board has drawn the attention of Governments to areas where the treaty provisions have not been effective enough or have not been adequate, considering the present situation with regard to drug abuse and illicit trafficking, or have been misunderstood.

I. INTERNATIONAL DRUG CONTROL IN RESPONSE TO THE CHANGING SITUATION WITH REGARD TO DRUG ABUSE AND ILLICIT TRAFFICKING

5. 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. The recommendations of the first international conference on narcotic drugs, held at Shanghai in 1909 (which later became known as the Opium Commission), and the provisions of the International Opium Convention, signed at The Hague in 1912, are to be seen as the result of the international consensus reached on how to react to the then unlimited availability of narcotic drugs, in particular opium, for non-medical use in several countries, mainly in east Asia but also in other parts of the world (for example, in England in Victorian times), which had led to the widespread abuse of those drugs, together with the health and social problems associated with such abuse.

6. There have been numerous changes in the nature and extent of drug abuse since then:

(a) The development of sciences, above all synthetic organic chemistry and pharmacology, and industrial manufacturing technologies, has led to the discovery and marketing of hundreds of new psychoactive drugs, which in turn have contributed to the fast development of medical therapy, making it possible to treat and cure millions of people. The inappropriate medical use and, to an even greater extent, the non-medical use of the same drugs, however, have opened the door for new types of drug abuse;

(b) During the last few decades, drug abuse has ceased to be a problem of a limited number of countries; it has become a global problem. Drugs that used to be specific to one culture have spread to other cultures.

7. The responses to that dynamic process are reflected in the international drug control treaties, including those currently in force. The Single Convention on Narcotic Drugs of 1961² incorporates and builds upon earlier national and international measures to control the cultivation, production, manufacture and distribution of natural drugs (and, in the case of opiates, their synthetic analogues) and obliges Governments to take measures against the traffic in and abuse of such drugs. The Convention on Psychotropic Substances of 1971³ is a response to the diversification of the spectrum of drugs of abuse, introducing controls over a number of synthetic drugs (hallucinogens, stimulants, hypnotics, sedatives and anxiolytics).

8. The immediate objectives of the 1961 and 1971 Conventions was to codify universally applicable control measures in order to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes, and to prevent their diversion from licit sources into illicit channels. Those objectives were clearly linked to the situation that prevailed when the first international drug control treaties were designed, in which opium and its derivatives were readily obtainable from licit sources. They were also the objectives of most conventions and protocols on drug control adopted prior to 1961, the main exception being the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, signed at Geneva in 1936.* All of the provisions of those conventions contributed to limiting the possibilities for the diversion of narcotic drugs and psychotropic substances from licit sources into illicit markets. The provisions related to illicit traffic and drug abuse, although mandatory, were of a general nature.

*The first international instrument that was intended for the prevention of illicit traffic, the implementation of which was neglected by Governments mainly because the large-scale illicit cultivation, production and manufacture of drugs did not exist at the time.

9. The system of international control of the licit movement of narcotic drugs, as embodied in the 1961 Convention and that Convention as amended by the 1972 Protocol,⁴ has been functioning in a generally satisfactory manner, as the Board has already stated several times. The system has succeeded in limiting, for each country and territory and in the world as a whole, the licit cultivation of narcotic plants and illicit production, manufacture and distribution of and trade in narcotic drugs to the quantities required for medical and scientific purposes. The limitation of licit supply has been achieved largely as a result of: (a) the universal acceptance and application of the above-mentioned conventions, by parties and non-parties alike; (b) the system of estimates, which fixes the limits (which, once approved by the Board, are binding to all Governments) as regards the requirements of narcotic drugs for medical and scientific purposes; and (c) restriction of the acquisition of narcotic drugs to levels within those limits by means of authorizations.

10. 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. In the period from 1980 to 1992, the amount of narcotic drugs diverted from licit manufacture and trade into illicit channels that was known to the Board was negligible compared with the volume involved in licit international trade each year. This has also been generally true for narcotic drugs moving within countries, where only occasional thefts or disappearances have occurred.

11. The prevention of diversion of narcotic drugs from licit sources into illicit channels has been possible largely because of (a) strict enforcement by all Governments and the Board of the system of estimates; (b) comprehensive and stringent national controls based on prior authorizations for the cultivation, production, manufacture, conversion and compounding of preparations, wholesale trade and retail distribution; (c) 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; and (f) auditing by the Board of statistical and other data furnished by each country and for each drug, together with requests 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 in Schedule II of that 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 endorsed by the Economic and Social Council to reinforce the original measures of the Convention. Additional control measures were also recommended by the Board and the Council for substances in Schedules III and IV of the 1971 Convention but have not yet been implemented by several Governments. Substances in those schedules continue to be diverted in large quantities from licit sources into illicit channels. Substances in Schedules I and II found on illicit markets originate, for the most part, in clandestine laboratories.

13. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988⁵ reflects the response of the international community to the ever-increasing illicit cultivation, production, manufacture and trafficking activities. The implementation of measures of control resulted in a situation in which most of the drugs in the illicit traffic or on the illicit markets were no longer being produced or manufactured in licit drug production areas: the international illicit traffic was being supplied mainly by illicit drug producers and clandestine laboratories. In other words, the general provisions against illicit traffic of the existing conventions were not comprehensive and specific enough.* The 1988 Convention is an expression of

*Article 35 of the 1961 Convention and article 21 of the 1971 Convention stipulates that parties to those conventions should take steps against illicit traffic, such as coordinating national action against illicit traffic, assisting each other and cooperating with each other and with international organizations in the campaign against illicit traffic, and ensuring that cooperation be conducted in an expeditious manner. Under article 35 of the 1961 Convention as amended by the 1972 Protocol, parties to that Convention should, if they deem it appropriate, furnish information on illicit drug activity within their borders to the Board and the Commission through the Secretary-General, and the Board, if requested to do so, may offer its advice on reducing such illicit drug activity.

the increasing and universal political will of Governments to intensify the fight against illicit drug production and trafficking.

14. To counteract the rapid increase in illicit activities involving narcotic drugs and psychotropic substances, the 1988 Convention provides for comprehensive and innovative measures against drug trafficking, such as provisions against money-laundering and against illicit activities related to precursors and provisions for new methods of international cooperation against illicit traffic (transfer of proceedings, controlled delivery etc.). Although it is too early to expect a significant impact of the 1988 Convention, for which wide application by Governments is necessary, there have already been signs that it is leading to enhanced drug control and effective results in some areas. The 1988 Convention has already given a discernible impetus to international cooperation, particularly in the form of bilateral and regional agreements. In addition, much action is being taken by Governments, individually and collectively, to implement the provisions of that Convention against money-laundering.

15. Some of the precursors to narcotic drugs were already controlled under the 1961 Convention (for example, ecgonine, its esters and its derivatives, which are convertible to ecgonine and cocaine). The Board regrets that at the time of the adoption of the 1971 Convention, Governments did not foresee the control of precursors to substances in its schedules, particularly in Schedule I, which were under very restrictive provisions. The absence of such control was a factor contributing to the development of the illicit manufacture of those substances. The control of precursors to psychotropic substances was thus first introduced by the 1988 Convention, together with the control of solvents and chemicals used in illicit drug manufacture.

16. Hence, the major international drug control treaties are mutually supportive, and complementary. Each of them builds upon and reinforces the provisions of the others and none of them alone is comprehensive enough. The main focus of the strategy reflected in each of the conventions has evolved, but the conventions have only one main goal, one philosophy: to prevent the use of drugs for non-medical purposes. That common and unique objective should be constantly kept in mind by all involved in national and international drug control.

17. When evaluating the effectiveness of the international drug control treaties from the point of view of achieving the "ideal" objective of a society free of non-medical use of drugs, it has to be taken into account that the abuse of and illicit trafficking in drugs (including illicit cultivation, production and manufacture) have many reasons - social, economic, cultural and political - upon which the drug control instruments do not have a direct influence.

18. The international community realized that even preventing the diversion of drugs from licit channels and strengthening and coordinating the fight against illicit drug cultivation, production, manufacture and trafficking would not by themselves solve the problem of the persisting demand. Without reducing the demand for drugs of abuse, limiting the illicit drug supply would result in only temporary or partial success. The Board appreciates that demand reduction programmes therefore now constitute a key element in the fight against drug abuse in the same way as supply reduction measures. The Board presented its detailed views on demand reduction in its report for 1993⁶ and made several recommendations to Governments for action in that area.

19. In the 1961 and 1971 Conventions, demand reduction is dealt with, albeit not in detail.* Though they obligate Governments to take appropriate measures, the conventions leave it to them to define those measures. That approach, in a field where uniform actions are hardly possible,

*Article 38 of the 1961 Convention as amended by the 1972 Protocol and article 20 of the 1971 Convention stipulate that parties to those Conventions should take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, care and rehabilitation of drug abusers. In addition, the articles stipulate that parties should promote the training of personnel in the treatment, after-care, rehabilitation and social reintegration of substance abusers.

may have led Governments to underestimate the importance of such measures for a long time. The 1988 Convention contains provisions on demand reduction that go into more detail, referring to recommendations of the competent United Nations bodies and the Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control⁷ as a basis for demand reduction measures.*

20. It has been questioned whether there should be a specific convention on demand reduction, or whether the provisions of the existing conventions should be amended to ensure a greater commitment by Governments to demand reduction strategies or to the general principles of such strategies. Present treaty obligations may indeed be supplemented by those of other instruments, emphasizing the importance of demand reduction in the context of comprehensive drug control strategies and stating general principles and guidelines. But the Board is not convinced that specific, universally binding treaty provisions on demand reduction could be agreed upon or that such a treaty would be an appropriate instrument to deal with such an issue. The Board considers that demand reduction is a national task that in a number of countries may have to be carried out with international support. It also considers that demand reduction programmes should be developed at the national and local levels, based on knowledge of the real drug abuse situation,⁸ and taking into consideration the cultural, political, economic and legal environment. Finally, there is a need to exchange information and expertise, and to provide technical assistance in the field of demand reduction to the many countries that are not equipped to cope with the deteriorating situation with regard to drug abuse. Demand reduction programmes should also deal with the use of licit psychoactive substances, such as alcohol and nicotine

21. The cooperation of the mass media and publishers is of crucial importance to demand reduction efforts. The Board urges Governments and the mass media to develop policies to prevent promotion of the non-medical use of drugs, with due respect for freedom of expression and freedom of the press. The public, and vulnerable groups in particular, have a right to be protected.

22. Limiting the use of narcotic drugs to medical and scientific purposes is motivated by humanitarian considerations, such as protection of the individual from the slavery of drug dependence and protection of society from the irresponsible behaviour of intoxicated individuals. The provisions of the international drug control treaties aimed at limiting the use of drugs to medical and scientific purposes should be regarded as "limiting" free choice in human behaviour in the same way as traffic regulations, restrictions on the availability of weapons or poisons or other dangerous substances, or regulations on prescribing, dispensing and using pharmaceutical products. (Thus, promoting the non-medical use of drugs can be compared to promoting the violation of traffic regulations, free access to weapons or poisons or the use of pharmaceuticals (such as antibiotics) without medical diagnosis.) Protecting the well-being of the individual and society is the purpose of the prohibiting the non-medical use of drugs, which is certainly not an attempt to limit human rights. The Board wishes to draw attention to the confusion created by some advocates of legalization of the non-medical use of drugs with their statements about human rights. The prevention of drug abuse problems by means of national and international control and demand reduction activities can be regarded as a basic right of the individual and society.

*Article 14, paragraph 4, of the 1988 Convention stipulates that parties to that Convention should adopt measures aimed at reducing illicit drug demand, based on, *inter alia*, the recommendations of the United Nations system and on the Comprehensive Multidisciplinary Outline, as it pertains to governmental and non-governmental agencies and private efforts. Mention is made of the possibility of parties to the Convention entering into bilateral or multilateral agreements or arrangements aimed at reducing illicit drug demand.

A. Continuing need for assessing drug abuse and for studying its relations to licit distribution and prescriptions systems

23. The Board regrets the continued lack of data on the extent, patterns and nature of, and trends in, drug abuse, which hampers the design of appropriate demand reduction strategies. The lack of information on psychotropic substances (e.g. benzodiazepines) is particularly acute.

24. One field related to drug abuse and demand reduction strategies is practically unexplored: the interaction between the licit distribution and prescription systems and drug abuse.

25. Inadequacy of the licit distribution systems for pharmaceuticals contributes to the existence of so-called parallel distribution systems. The use of drugs procured outside of pharmacies and other authorized drug-dispensing places should be studied in order to assess the impact of parallel distribution systems on the development of drug abuse situations.

26. Another aspect is that developed as well as developing countries have not yet properly assessed the real extent of the abuse of narcotic drugs and, to an even greater degree, of psychotropic substances as a result of their being excessively prescribed or consumed. That aspect of demand reduction appears to have been neglected by most parties despite the requirement laid down in the conventions to ensure that prescriptions are issued in accordance with sound medical practice.

B. Strategies for ensuring an adequate supply of drugs used for medical and scientific purposes

27. The system of international drug control was successful in preventing diversion from the licit supply of narcotic drugs, but its other objective, that of ensuring an adequate supply of narcotic drugs, especially opiates used for medical purposes, has not been universally achieved. The countries most affected by the situation are developing countries, where, for example, according to WHO, the majority of cancer cases occur. Of the 12 tonnes of morphine used worldwide in 1993 to treat severe pain, less than 20 per cent was used in developing countries. Similar statistics could be cited for codeine and other opiates. The 1961 Convention as amended by the 1972 Protocol, article 14 *bis*, stipulates that the Board may recommend to the competent United Nations organs and to the specialized agencies that technical or financial assistance, or both, be provided to a Government in support of its efforts to carry out its obligations under that Convention, but that is generally to improve the drug control system and not to ensure that narcotic drugs used for legitimate purposes are available in sufficient quantities. It is left to each country to procure the narcotic drugs that it requires for licit purposes, and the international drug control system has led the authorities in certain countries to pay less attention to the need to ensure an adequate supply of such drugs.

28. The Board, recalling that ensuring the availability of an adequate amount of drugs for medical and scientific use is an obligation under the international drug control treaties, encourages all Governments to take measures to that end. National measures to prevent diversion should never hinder the availability of drugs for legitimate medical purposes. However, keeping in mind that excessive doses or irrational prescribing of drugs may lead to poisoning or dependency, it is necessary to ensure the safe dispensing and use of drugs. Strategies to ensure the availability of drugs should also deal with the problems of inadequate systems for distributing pharmaceuticals and improperly functioning national drug control systems. Closer cooperation should be sought between the Board, UNDCP and WHO and the other international organizations concerned in designing and implementing such strategies. The Board invites WHO to continue monitoring the adequacy of national supplies of pharmaceuticals, including supplies of narcotic drugs and psychotropic substances.

29. The Board is cognizant of the need to allow for the timely delivery of emergency medical supplies that include controlled drugs to populations stricken by war or natural disasters. In such situations, where often the national competent authorities of the receiving country have not been identified or do not function properly, the Board does its best to accommodate the delivery of such supplies in the context of the provisions of the international drug control treaties by requesting the exporting countries to take all measures to prevent diversion. The practice has been to acknowledge that the reporting of such transactions can be done by the competent authorities of the exporting countries only. The 1961 Convention allows for exporting above the total of the estimates for a given country in such exceptional situations.* The Board believes that this flexible and reasonable implementation of the treaties has not created obstacles to the delivery of controlled drugs by humanitarian organizations. An awareness of the different ways to ensure the speedy delivery of such drugs while preventing diversion has to be developed not only by the authorities of exporting countries, but also by those of receiving countries.

C. Confirmation and strengthening of the international drug control system

30. The international community has long realized that no country alone can deal with drug control, that the response to drug abuse and illicit trafficking problems must be global and coordinated, and that a comprehensive set of strategies emphasizing both supply and demand reduction are necessary. The international community has expressed a desire not to reopen all debates but to build on those commonly defined strategies and broad principles and to seek ways to further strengthen measures for drug control at both the national and international levels. The Board reaffirms its strong position against legalization of the non-medical use of drugs, which it articulated in its report for 1992.⁹ There continues to be movements propagating that the international drug control system has failed and that the only alternative is legalization. The Board is convinced that legalization of the non-medical use of drugs currently under control not only would entail major public health and social risks, but also would not significantly reduce drug-related crime or disrupt the networks of organized criminal syndicates, as is often argued.¹⁰

*See article 21, paragraph 4 (b), of the 1961 Convention.

II. POSSIBLE FUTURE ADJUSTMENTS IN THE INTERNATIONAL DRUG CONTROL TREATIES

31. It does not appear necessary to amend the international drug control treaties in substantive terms at this stage, but some technical adjustments are necessary in order to update some of their provisions. Some provisions of the 1961 and 1971 Conventions should be harmonized, some shortcomings should be eliminated and procedures should be simplified. The Board has identified areas where clarifications are needed.

A. Suggestions concerning the Single Convention on Narcotic Drugs of 1961

1. Reporting

32. The Board is of the view that some treaty provisions and procedures that may create a burden for administrations in charge of reporting to the Board could be alleviated without increasing the risk of narcotic drugs and psychotropic substances being diverted from licit sources into illicit channels.

33. Experience has shown that diversion can actually be best prevented if Governments thoroughly apply some system of import and export authorization and contact the Board and other Governments as soon as a suspicious transaction emerges.

34. Quarterly statistics on international trade in narcotic drugs and psychotropic substances, however, do not appear to facilitate significantly the early detection of their diversion, contrary to what was originally expected. While quarterly reporting is relatively easy for Governments with more sophisticated computerized data collection and monitoring systems, it creates a lot of work for other Governments. Statistics on international trade could be reported on an annual basis only. There would thus be a need to amend the 1961 Convention to suppress the obligation to provide quarterly statistical returns on imports and exports of narcotic drugs and poppy straw,* but the Board believes that there would be agreement among Governments to do so. For substances in Schedule II of the 1971 Convention, quarterly reporting on international trade is a voluntary control measure, recommended by the Economic and Social Council, and a new Council resolution would be sufficient to bring back reporting obligations to the treaty requirements for annual reporting.

2. Using for synthetic narcotic drugs a system of simplified estimates (assessments) similar to the one used for psychotropic substances

35. The Board has observed that the control regime of Schedule II of the 1971 Convention, in combination with the simplified estimate system, has been effective enough to prevent the diversion of such substances from licit sources. The Board would be willing to consider more thoroughly whether a simplified estimate system could also be used for synthetic narcotic drugs (pethidine, methadone etc.) included in the schedules of the 1961 Convention. It seems that using such a simplified system would reduce the administrative burden on Governments, without increasing the risks of diversion. The system of estimates in its present form should continue to be applied to "natural narcotic drugs" (opium, natural opiates such as morphine and codeine and their semi-synthetic derivatives such as dehydromorphine and dehydrocodeine). Close cooperation between Governments and the Board and use of the system of export and import authorizations would be needed to effectively prevent diversion. In addition to preventing diversion from international trade, the 1961 Convention provides for means of preventing diversion from

*See article 26, paragraph 2 (b), of the 1961 Convention.

domestic manufacture and distribution, that is, from excessive accumulation of stocks.* Therefore, the Board would like to stress that the suggestion to use for synthetic narcotic drugs a system of simplified estimates (assessments) similar to the one used for psychotropic substances needs further careful examination, in consultation with Governments.

3. Poppy straw: the need for enhanced controls

36. The 1961 Convention was the first to include measures for the control of poppy straw. Under the 1961 Convention, poppy straw is not a narcotic drug and is therefore subject to only limited international control, namely, after it has been delivered to a factory for processing or has entered the international trade. The data required for control purposes, pursuant to the 1961 Convention as amended by the 1972 Protocol, are limited.** The strict comprehensive control regime for opium is not applicable to poppy straw since poppy straw itself was not thought to be subject to dangerous abuse and therefore not likely to be used by traffickers. In view of the widespread abuse of preparations obtained from poppy straw in some producer countries, domestic control has been tightened by the introduction of a licensing system, and of penal sanctions for offenders. Poppy straw is currently the main source of licit opiates and evidence of its abuse is becoming increasingly apparent.

37. The Board concludes that the absence of control measures for poppy straw similar to those being applied to opium not only gives countries producing poppy straw an edge over opium producer countries but also encourages large-scale illicit activity. It might be necessary to consider formalizing the voluntary measures of control over the cultivation or production of poppy straw that are in force in some countries and to consider extending them to include all countries producing poppy straw. The Board invites the Commission on Narcotic Drugs to look further into the matter and to examine ways to strengthen controls accordingly. The Board proposes convening a meeting of representatives of interested Governments to elaborate generally acceptable mechanisms for improving the implementation of article 25 of the 1961 Convention.

4. Classification of cannabis products according to tetrahydrocannabinol content

38. As for cannabis, one of the original objectives of the 1961 Convention was to progressively prohibit the use of cannabis and cannabis resin in countries such as Egypt, India and South Africa, where the non-medical use of cannabis was, at the time, a tradition or socially acceptable. The 1961 Convention achieved that objective: the non-medical use of cannabis was prohibited by law in those countries.

39. In the years following the adoption of the 1961 Convention, cannabis abuse also developed in countries where traditional forms of cannabis use (ceremonial, religious, medical or social) never existed, such as countries in western Europe. The 1961 Convention does not provide adequate control measures for those situations, as such situations were not foreseen at the time of its adoption.

40. In addition, modern, more sophisticated horticultural technologies have been used to develop new, highly potent varieties of cannabis (with a tetrahydrocannabinol (THC) content of up to 20 per cent). That has compounded the already growing problem of non-traditional abuse of cannabis. Furthermore, the classification of cannabis products in the 1961 Convention, namely, cannabis resin and cannabis, has become outdated and misleading.*** Thus, cannabis leaf,

*See article 21, paragraph 3, of the 1961 Convention.

**The data are limited to estimates and statistics on areas cultivated, geographical location of the area of cultivation, and statistics on imports and exports. Statistical data on actual production and stocks are not currently required.

***See article 1, paragraph 1, subparagraphs (b) and (d), of the 1961 Convention.

regardless of its THC content, is not controlled under that Convention (except under the provisions of article 28, paragraph 3).

41. Therefore, the Board recommends that consideration should be given to strengthening the provisions of the 1961 Convention regarding the control of cannabis, taking into account the current situation, *inter alia*, by extending the control to cannabis leaf, which in many cases contains more THC than cannabis resin. For that purpose, it might be necessary to consider a revision of the classification of the cannabis plant and cannabis products in the 1961 Convention, ensuring that there is a correlation with the potency of the plants and the products.

5. Coca leaf: a need to clarify ambiguities

42. Whereas measures for the control of cocaine and its precursors had been introduced by earlier treaties, the 1961 Convention was the first to include provisions for the control of coca bush cultivation and coca leaf production. One of the original objectives of the 1961 Convention was to limit coca bush cultivation and coca leaf production to the amounts needed for legitimate purposes.

43. Another objective of the 1961 Convention was to abolish coca leaf chewing within 25 years (article 49). While coca leaf chewing in the countries of the Andean subregion may be on the decrease, due to changing lifestyles, there is clear evidence that in some of the countries concerned that habit has not been abolished within the time-limit set by the 1961 Convention.

44. There were no specific provisions in the 1961 Convention regarding another traditional non-medical use of coca leaf, the drinking of coca tea (*mate de coca*). Thus, *mate de coca*, which is considered harmless and legal in several countries in South America, is an illegal activity under the provisions of both the 1961 Convention and the 1988 Convention, though that was not the intention of the plenipotentiary conferences that adopted those conventions.

45. The Board discussed the problem of the inadequate application of the provisions of the 1961 Convention governing coca leaf in its report for 1992¹¹ and, after having sent a mission to Bolivia and Peru, in its report for 1993.¹²

46. There is a need to examine the situation regarding States parties to the 1961 Convention that have made reservations under article 49 of that Convention. Traditional drug use that had been temporarily permitted under the 1961 Convention should be assessed, with a view to making a decision on what the approach of the international drug control system should be to that problem. A true assessment of the habit of coca leaf chewing is urgently called for.

47. There is also a need for WHO to undertake a scientific review of the value and risks of *mate de coca*. That would provide a basis for Governments to make the necessary policy-related decision to resolve the conflict between the provisions of the conventions and the ways in which the Governments and societies concerned view *mate de coca* and deal with it in legislation.

48. The Board is confident that the Commission on Narcotic Drugs, on the basis of scientific evaluation, will resolve such long-standing ambiguities, which have been undermining the conventions.

49. In addition, the Board would like the clarification of the long-standing misunderstanding of the provisions of article 14 of the 1988 Convention, which has had some bearing on the debate on coca leaf. Article 14 deals with measures to eradicate illicit cultivation of narcotic plants and to eliminate illicit demand for narcotic drugs and psychotropic substances. Paragraph 2 of article 14 states that parties to the 1988 Convention, when taking such measures, should take due account of traditional licit use, where there is historic evidence of such use. But that provision should be seen in the light of article 25 of the 1988 Convention, which stipulates that the provisions of that Convention should not derogate from any obligations undertaken by parties to the Convention

under the previous international drug control conventions. Furthermore, the drafters of the 1988 Convention enhanced the non-derogatory clause by including in paragraph 1 of article 14 a provision stipulating that any measures taken pursuant to that Convention should not be less stringent than the provisions applicable to eradication of illicit cultivation of plants containing narcotic drugs and psychotropic substances under the provisions of the previous international drug control conventions.

B. Suggestions concerning the Convention on Psychotropic Substances of 1971

50. In the preamble to the 1971 Convention, the parties to that Convention expressed their determination to prevent and combat abuse of certain psychotropic substances and the illicit traffic and their recognition of the fact that the use of psychotropic substances for medical and scientific purposes was indispensable and that the availability of such substances for those purposes should not be unduly restricted.

51. At the time that the 1971 Convention was being drafted, the majority of Governments rejected the idea of controlling amphetamines, barbiturates, tranquilizers and hallucinogenics such as lysergic acid diethylamide (LSD) under the 1961 Convention. An analysis of the consequences connected with making a distinction between "narcotic drugs" and "psychotropic substances" is beyond the scope of the present report. The separation of cannabis from its active ingredient THC or of cocaine from amphetamines, however, illustrates the arbitrariness of the boundaries between the two categories. The 1971 Convention refers to two groups of substances:

(a) *Hallucinogens with no or very limited medical use*: they are placed in Schedule I of the 1971 Convention; their control regime is more strict than the one for narcotic drugs (prohibition of use except for scientific and very limited medical purposes);

(b) *Substances with legitimate medical use but also abused*: they are placed under a control less stringent than the one for narcotic drugs under the 1961 Convention; while the control regime varies between Schedules II, III and IV, the provisions for the control of international trade are less strict than for narcotic drugs, owing to the prevailing concern of Governments in 1971 about not hindering international trade in those substances.

52. Since the adoption of the 1971 Convention, important changes have occurred in medical therapy, affecting many psychotropic substances originally listed in the schedules of that Convention. In 1971, amphetamines were regarded by many Governments as indispensable medicaments; hundreds of different preparations containing amphetamines were prescribed and dispensed in several countries. Today, only small amounts of amphetamines and amphetamine-type stimulants are needed for specific and rather rare medical purposes; prescribing them for the treatment of depressive states or weight control is considered medical malpractice, and the overwhelming majority of the preparations containing amphetamines have disappeared from national pharmaceutical markets. At the same time, however, amphetamines and amphetamine-type stimulants have become the main drugs of abuse in several countries, and the clandestine manufacture, illicit distribution and smuggling of those drugs constitute major problems for law enforcement authorities. All barbiturates except phenobarbital, which is still used to control epilepsy, are regarded as outdated therapeutic agents and are no longer prescribed in many countries.

53. At the same time, the diversion of substances listed in Schedules III and IV of the 1971 Convention has taken on global dimensions. In the view of the Board, a view that was endorsed by the Commission on Narcotic Drugs and the Economic and Social Council, not including some control measures of the 1961 Convention in the 1971 Convention has hindered the prevention of diversion of substances in Schedules II, III and IV of the 1971 Convention. The Board has recommended the voluntary application of some additional provisions.

54. The paragraphs below contain some suggestions by the Board on how to strengthen existing provisions of the 1971 Convention in line with Economic and Social Council resolutions. When considering ways to strengthen the controls of the 1971 Convention, it should be borne in mind that psychotropic substances have a wide medical use and should be made available for such purposes, though daily social problems should not be treated only with medicine.

1. Making assessments and import and export authorizations mandatory for substances in Schedules II, III and IV of the 1971 Convention

55. Experience has shown that the objective of the 1971 Convention to prevent the diversion of psychotropic substances from licit sources into illicit channels can only be achieved if the following two prerequisites are universally established:

(a) A pre-export review of the legitimacy of each transaction must be carried out in all exporting countries, based on the requirement of mandatory export authorization or pre-export declaration;

(b) The competent authorities of exporting countries must have at their disposal during the above-mentioned pre-export review at least a rough indication of the legitimate requirements of importing countries for individual psychotropic substances.

56. With respect to substances in Schedule II of the 1971 Convention, the provisions require parties to that Convention to comply with the first prerequisite listed above (article 12) but not with the second one. With respect to substances in Schedules III and IV, neither of the prerequisites is provided for by the mandatory control measures of the 1971 Convention.

57. The Economic and Social Council, in its resolution 1981/7, invited all Governments to respond positively to the suggestion of the Board that they should assess from time to time their medical and scientific requirements for substances in Schedule II of the 1971 Convention. Consequently, the large-scale diversion of substances in Schedule II in the 1970s and in the beginning of the 1980s has been curtailed by, *inter alia*, the almost universal application by Governments of the simplified estimate system that has taken place since then. The Council has requested all Governments voluntarily to extend the system of import and export authorizations provided for in article 12, paragraph 1, of the 1971 Convention to cover international trade in substances listed in Schedules III and IV (Council resolutions 1985/15 and 1987/30); and it has invited all Governments to extend the system of simplified estimates (assessments) of annual medical and scientific requirements to include substances listed in Schedules III and IV (Council resolution 1991/44). However, those measures have not yet been universally applied and, consequently, the diversion from licit sources of substances in Schedules III and IV has continued unabated.

58. In addition to preventing diversion, a mandatory system of export authorizations for substances in Schedule III and IV of the 1971 Convention would render more efficient the mechanism for import prohibition provided for under article 13. The mechanism was expected to serve as a tool for protecting importing countries against unwanted imports of substances in Schedules II, III and IV. It has brought only partial results with respect to substances in Schedules III and IV, however, partly because exporting countries that do not have such a system for pre-export controls for those substances are not in a position to effectively enforce import prohibitions adopted by other countries. Once again, the Board would like to encourage Governments to make use of article 13, under which a country may take a decision to prohibit the import of substances found to be diverted and abused and which makes possible a better sharing of control obligations between importing and exporting countries.

59. Practical experience has shown that the provisions of the 1971 Convention cannot ensure the achievement of the treaty objectives with respect to substances in Schedules II, III and IV. The evaluation of the international drug control instruments pursuant to General Assembly

resolution 48/12 presents an opportunity for proposing an amendment to the 1971 Convention in which the measures recommended by the Economic and Social Council in its resolutions 1985/15, 1987/30 and 1991/44 would be included as obligations under the 1971 Convention. That would result in a simplified estimate system for substances in Schedules II, III and IV and a system of import and export authorizations for substances in Schedules III and IV. The Board hopes that Governments will agree on those voluntary measures becoming treaty obligations.

60. The Board wishes to emphasize once again that while the control measures contained in the 1971 Convention are to be thoroughly applied, Governments should ensure that psychotropic substances used for medical purposes are available for such use.

**2. Providing data on international trade to enable the International
Narcotics Control Board to properly monitor such trade**

61. With respect to substances in Schedules III and IV of the 1971 Convention, Governments are not required under article 16 to provide the Board with detailed information on their imports and exports (countries of origin and countries of destination). Thus, the Board has been unable to fully analyse the international trade in those substances and to advise Governments on certain cases involving diversion or on shortcomings in national trade controls. The Economic and Social Council, in its resolution 1985/15, requested all Governments to voluntarily furnish information to the Board on the countries of origin of imports and the countries of destination of exports of substances listed in Schedules III and IV. Since that resolution was adopted, more and more Governments have been furnishing such information.

62. Governments should consider making the requirement of detailed reporting on countries of origin of imports and countries of destination of exports of substances in Schedules III and IV a treaty obligation. The Board hopes that there will be agreement among all parties to the 1971 Convention, after discussion by the Commission on Narcotic Drugs, on introducing such a provision in the 1971 Convention.

**3. Making scheduling procedures of the 1971 Convention similar to
those of the 1961 Convention**

63. Clear scheduling criteria and fast scheduling decisions are key elements in the proper functioning of the international drug control system.

64. Before the adoption of the 1971 Convention, the scheduling of new drugs was a relatively speedy process because of the clear criteria used for scheduling decisions. Those criteria were defined in article 3, paragraph 3, of the 1961 Convention; consequently, any new drug liable to similar abuse and productive of similar ill effects as the drugs already under international control could be put under control without delay. Due to some commercial interests and alleged public health considerations, this "similarity concept" was abandoned by the plenipotentiary conference that adopted the 1971 Convention. In order to avoid the international control of a great number of amphetamine- and barbiturate-type drugs, the "similarity concept" was replaced by complex and contradictory criteria.

65. Introducing the new scheduling criteria into the international drug control system has had three negative consequences:

(a) In order to avoid arbitrary decisions, WHO was forced to build up a complex and lengthy "evaluation" mechanism;

(b) As a consequence of the time-consuming evaluation process, scheduling decisions have been considerably delayed, allowing the propagation of new drugs of abuse. Unscrupulous chemists and illicit traffickers often exploit this time-lag by offering other similar drugs not under international control;

(c) The ambiguity of scheduling criteria, together with the inclusion among those criteria of such requirements as evidence or likelihood of abuse constituting a serious public health and social problem, has contributed to the hesitation of Governments to send notifications for changing the scope of control of the 1971 Convention. (Only the United States of America has submitted notifications under article 2 of the 1971 Convention; all other changes in the scope of control of that Convention have been initiated by WHO.)

66. Examination of the substances scheduled under the 1971 Convention since the coming into force of that Convention reveals that applying the similarity concept would lead (with few exceptions) to the same result, only with greater speed and less energy and at less expense.

67. In the case of the 1961 Convention, scheduling decisions of the Commission on Narcotic Drugs are taken by a simple majority vote. The 1971 Convention stipulates that such decisions should be taken by a two-thirds majority of the members of the Commission. That requirement has also contributed to delayed scheduling. There have been cases in which the international control of some substances has been hindered for several years not because of votes cast against scheduling them but only because of a large number of abstentions and absent delegations.

68. In order to enhance the effectiveness of the 1961 and 1971 Conventions, consideration should be given to harmonizing the scheduling criteria and process. Amending the provisions of the 1971 Convention on scheduling to conform with those of the 1961 Convention would lead to the elimination of contradictions and to transparency and fast scheduling decisions, reducing at the same time the costs of the evaluation process.

4. Procedures for the exemption of preparations from measures of control

69. There is evidence that in many countries the provisions of the 1971 Convention with respect to the notification by Governments of the exemption of preparations from certain control measures of that Convention (article 3) are not respected. In many countries, a large number of preparations containing psychotropic substances have been procured without a medical prescription but the Governments of those countries have not notified the Secretary-General of those exemptions nor have those exemptions been reviewed by WHO. In the opinion of some Governments, the complexity of the provisions of the 1971 Convention have contributed to this treaty violation.

70. Consideration should be given to studying the reasons behind the failure of article 3 of the 1971 Convention to be implemented at the national level.

5. Exemption of diagnostic kits from certain control measures

71. The Board is aware that in a number of exporting countries import and export authorizations for international trade in diagnostic kits containing psychotropic substances or narcotic drugs are not required, as they are considered a superfluous administrative burden.

72. While that practice is certainly not a strict application of the provisions of the conventions, the Board does not object to it, as long as steps are taken to ensure that the small quantities of drugs contained in diagnostic kits are not abused. Authorities of the exporting countries concerned, however, should make sure that the legislation of importing countries is respected.

73. Exempting diagnostic kits from certain measures of control provided for under the 1971 Convention or following the procedure laid down in the 1961 Convention, involving both WHO and the Commission on Narcotic Drugs, would be a complex and cumbersome exercise.

74. In the opinion of the Board, the Commission should endorse in a resolution the practice of not requiring import and export authorizations for international trade in diagnostic kits containing psychotropic substances or narcotic drugs.

**C. Suggestions concerning the United Nations Convention against Illicit
Traffic in Narcotic Drugs and Psychotropic Substances of 1988**

75. As the 1988 Convention entered into force only on 11 November 1990, it would be premature to evaluate the functioning of that Convention as a whole. Any such evaluation, to be meaningful, should be done on the basis of the accumulated experiences of Governments. Individual and collective action has been and continues to be taken by Governments as a matter of priority to implement the provisions of, *inter alia*, article 12, on the control of precursors, and articles 3 and 5, especially as they relate to money-laundering. It may therefore be appropriate to make some preliminary observations on how the provisions of article 12 function and to briefly assess present treaty-based efforts to combat the laundering of profits derived from drug trafficking.

76. The provisions of the 1988 Convention relate to provisions of the 1961 and 1971 Conventions and make their implementation more effective. Indeed, many of the provisions of the 1988 Convention are concrete tools for international cooperation aimed at achieving the objectives of the 1961 and 1971 Conventions of preventing the use of and trafficking in drugs for non-medical purposes. The Board wishes to stress the importance of all the innovative provisions of the 1988 Convention and invites Governments to work with the Board in making use of those instruments in the struggle against illicit drug trafficking. In carrying out its various activities, including its missions and the preparation of its annual report, the Board is cognizant of its responsibilities under the 1988 Convention and is seeking to carry them out.

1. Implementation of article 12 of the 1988 Convention

77. The objective of article 12 of the 1988 Convention is to prevent the diversion of substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, which are included in Tables I and II of that Convention. To that end, the article provides for:

(a) Measures to control the manufacture and domestic distribution of, and international trade in, substances in Tables I and II of that Convention;

(b) Procedures for the assessment of substances for possible scheduling or rescheduling under that Convention.

78. Under article 12, the Board is required to submit to the Commission on Narcotic Drugs each year a report on the implementation by Governments of the provisions of that article. In addition, the Commission is required to review periodically the adequacy and propriety of Tables I and II.

(a) *Prerequisites for implementing the provisions of article 12 of the 1988 Convention and possible difficulties in their implementation*

(i) *Translating the general provisions of article 12 of the 1988 Convention into specific control activities*

79. Unlike the provisions of the 1961 and 1971 Conventions, article 12 of the 1988 Convention only provides for general measures of control. There is consequently a need for Governments to translate those general provisions into specific control activities. How that should be done is left to the discretion of individual Governments.

80. As for the manufacture and domestic distribution of listed substances, parties to the 1988 Convention are required to take the measures they deem appropriate to prevent diversion. It is left to the parties to that Convention themselves to determine which measures are most appropriate to the circumstances prevailing in their territories.

81. Concerning international trade in substances listed in Tables I and II of the 1988 Convention, the measures provided for in that Convention are mandatory. The Convention requires parties (a) to establish and maintain a system to monitor international trade in such substances in order to facilitate the identification of suspicious transactions; and (b) to seize any listed substance if there is sufficient evidence to show that the substance is intended for illicit drug manufacture. How such systems and procedures should be put in place is left to the discretion of government authorities. The 1988 Convention provides no specific measures but only general guidance on how to implement its provisions in those areas.

82. A number of international groups, such as the Chemical Action Task Force, have dealt with these and other questions and have made specific proposals for concrete measures of control. The Economic and Social Council and the Commission on Narcotic Drugs have adopted a number of resolutions to promote the implementation of the 1988 Convention.

83. The fact that only general provisions are included in article 12 of the 1988 Convention leaves sufficient flexibility for adapting the controls to specific national situations. Close attention should be paid to tailoring control systems to the different requirements of, for example, chemical-producing and transit countries and countries affected by illicit drug manufacture.

(ii) Problems in implementing article 12 of the 1988 Convention that are to be solved at the national level

84. One of the most serious problems concerning the general monitoring of the licit movement of chemicals, particularly substances in Table II of the 1988 Convention, is that a large number of countries still do not have in place mechanisms enabling them to obtain information on the licit requirements for, and the general availability and use of, the substances listed in the tables of that Convention. Manufacturers, distributors, importers and exporters of such substances are unknown. It is difficult to see how, under such circumstances, adequate controls can be established.

85. Parties to the 1988 Convention are consequently not able to provide the Board with information on the licit movement of precursors. There are no specific requirements for reporting such licit movement to the Board. But under article 12 of the 1988 Convention, parties to the Convention are under the general obligation to collect such data, since it is a prerequisite to their monitoring of international trade in substances in Tables I and II* and of any manufacture and distribution of those substances carried out in their territories.** It is also information needed by the Board to make its assessment of substances in Tables I and II for possible scheduling, descheduling or rescheduling*** (see paragraph 94 below).

86. Furthermore, some Governments may be reluctant to introduce comprehensive national control mechanisms based on the provisions of article 12 of the 1988 Convention, because of fear that such controls might run counter to domestic policies on deregulation of the chemical industry, for example, or because of concern over the possible impact controls might have on licit trade in chemicals. Such concerns, however, should not hamper universal application of the provisions of the Convention. Mechanisms to prevent diversion should be carefully established so that they do not hamper legitimate trade. In particular, article 12 provides for the protection of commercial secrecy, and the Board has prepared for its secretariat guidelines on the secure handling of information.

87. The Board continues to examine the legislative and administrative efforts being made by Governments. In areas where action has been taken to put in place the necessary legislative

*Under article 12, paragraph 9 (a), of the 1988 Convention.

**Under article 12, paragraph 8 (a), of the 1988 Convention.

***Under article 12, paragraph 4, of the 1988 Convention.

instruments for precursor control, such as Asia (individual countries), Central America and the Caribbean, Europe, North America and South America, effective implementation, as well as close cooperation and joint action with other Governments, is now needed. In other areas, such as Africa and Oceania, there is a need to establish harmonized systems of control as a matter of urgency, before precursor problems of greater magnitude emerge.

88. It is increasingly being recognized that some countries without an adequate legal framework or appropriate mechanisms to monitor and regulate the production of and trade in chemicals are being used by traffickers to divert precursors into illicit channels.

89. Thus, certain problems are not inherent in the 1988 Convention but are attributable to the short time that Governments have had to implement in a concerted manner its provisions at the national level.

(iii) Making better use of the mechanism of pre-export notification for substances in Table I of the 1988 Convention

90. As for international trade, the exchange of information between exporting, importing and transit countries, so that the countries that are the immediate recipients of shipments of precursors are alerted, has proved to be an effective means of identifying suspicious transactions.

91. One example of this is the pre-export notification requirement for substances in Table I of the 1988 Convention, contained in article 12, paragraph 10, of that Convention. The procedure is applied only when special notification is made to the Secretary-General. At present, only one country has availed itself of that requirement. The Board has noted, however, that a number of countries actually send pre-export notifications to importing countries. Export notification alone, whether it is done informally or after special notification is made to the Secretary-General, may not be sufficient to prevent diversion unless the receiving (importing or transit) country can take action to monitor the trade.

92. Recent experience in preventing diversion seems to indicate that some type of import and export authorization system may be needed to prevent diversion more effectively. Some experience in the use of this system has already been gained. The European Union has adopted a regulation requiring export authorization under certain conditions, and a few individual countries have similar requirements.

(b) Problems encountered by the International Narcotics Control Board in collecting data for the assessment of substances for possible change in the scope of control under article 12 of the 1988 Convention

93. The scheduling procedure contained in article 12 of the 1988 Convention makes it possible to place substances in Tables I and II in such a way that controls most appropriate to each substance may be applied.

94. When making its assessment for possible scheduling or rescheduling, the Board is required to take into account the extent, importance and diversity of the licit and illicit use of substances; however, there is no established mechanism or obligation for Governments to collect and submit such data (see paragraph 85 above). The lack of data submitted by Governments resulted in the postponement of the assessment by the Board in 1993.

95. Although much has been achieved since 1990 and the entry into force of the 1988 Convention to prevent the diversion of precursors, the international community recognizes that much remains to be done to improve controls and to prevent chemicals from falling into the hands of illicit drug manufacturers. The need for such improvement stems not from a need to deal with major shortcomings of the 1988 Convention itself but from the fact that many countries have yet to develop the legal framework and appropriate mechanisms for the application of the measures

provided for in that Convention. In each region of the world, despite a number of recent initiatives, there is a need for greater awareness of the importance of effective precursor controls and, in a number of countries, there are misunderstandings about the implications of such control. More generally, there is a great need for background information on the licit uses and movement of precursors. There is also a need for systems for collecting such information and for procedures for sharing the information once it has been collected. Only when those systems are in place, and practical difficulties in implementation have been identified, will it be possible to start evaluating critically the provisions in the 1988 Convention that apply to preventing the diversion of precursors. As the Board has repeatedly emphasized, particularly within regions, control measures should be harmonized so that weak controls in one country do not jeopardize the efforts of neighbouring countries with more effective controls.

2. Implementation of the provisions against money-laundering contained in the 1988 Convention

96. In its report for 1993,¹³ the Board underscored the importance of measures against money-laundering. Combating the laundering of proceeds derived from drug trafficking is essential to the struggle against organized crime and against illicit drug traffickers, who are motivated only by the profits to be made. At present, there is a growing consensus that measures adopted by the international community in that field must target the laundering of proceeds derived not only from illicit drug trafficking, but also from the whole range of organized criminal activities. Various measures have been adopted by Governments – individually or collectively – based on, *inter alia*, Council of the European Communities directive 91/308/EEC of 10 June 1991, on prevention of the use of the financial system for the purpose of money-laundering,¹⁴ the Inter-American Drug Abuse Control Commission (CICAD) model regulations concerning laundering offences connected to illicit drug trafficking and related offences,¹⁵ and the recommendations on money-laundering formulated by the Financial Action Task Force established by the heads of State or Government of the Group of Seven major industrialized countries and the President of the Commission of the European Communities. The Board notes with interest that consideration has been given to the possibility of incorporating all such international measures against the laundering of proceeds of illicit activities, including some of the measures introduced at the national level, into an international convention against the laundering of money derived from organized criminal activities.

97. The provisions of the 1988 Convention against money-laundering have yet to be fully implemented. The Board encourages Governments of States parties to the 1988 Convention to urgently adopt the necessary legislative provisions on the prevention of money-laundering and the tracing, seizure and confiscation of the instrumentalities and the proceeds of drug trafficking.

98. Methods to launder illicit profits are becoming increasingly sophisticated, often in response to the introduction of measures against money-laundering. The laundering of profits derived from drug trafficking enables trafficking organizations to avoid having those proceeds confiscated, thereby fuelling more trafficking activities. The Board therefore also recommends that parties to the 1988 Convention should, pursuant to article 5 of that Convention, consider ensuring the reversal of the onus of proof regarding the lawful origin of alleged proceeds or other property liable to confiscation, subject to appropriate safeguards. While few States parties to the Convention have introduced such measures, reversal of the onus of proof is often a useful legal tool for law enforcement authorities confronted with increasingly complex operations having international ramifications. With a view to enhancing cooperation between the financial sector and law enforcement authorities, the Board also notes the present efforts to make the declaration of suspicious transactions mandatory.

III. MONITORING THE IMPLEMENTATION OF THE INTERNATIONAL DRUG CONTROL TREATIES

A. Measures to be taken by the International Narcotics Control Board to ensure the implementation of the international drug control treaties

99. The role of the Board in monitoring and promoting the implementation of the international drug control treaties is clearly defined under the 1961 and 1971 Conventions. One issue to be raised under the present evaluation exercise is the measures to be taken by the Board to ensure the execution of the treaties, which are spelt out in article 14 of the 1961 Convention and article 19 of the 1971 Convention. Several steps are foreseen; for example, the Board, if it has reason to believe that the aims of one of the conventions are being seriously endangered by reason of the failure of any country or territory to implement its provisions, has the right to ask for explanations from the Government concerned, to call upon the Government concerned to adopt remedial measures, and to call the matter to the attention of the parties to the convention, the Council and the Commission. As a final step, the Board, performing its "judicial" functions, may recommend to parties to the convention that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned. Those powers are extremely important and the conditions under which the Board can make use of article 14 of the 1961 Convention and article 19 of the 1971 Convention have been strictly defined.

100. Over the years, the Board, building on the practice of its predecessors (the Permanent Central Opium Board, the Permanent Central Narcotics Board and the Drug Supervisory Body) and in line with the spirit of the treaties, has established its own procedure for promoting treaty implementation, within the context of a constant diplomatic dialogue with Governments and good international cooperation. As part of that continuing dialogue, the Board has established procedures to deal with serious drug abuse and illicit trafficking situations and with problems involving treaty implementation. Those include exchanging letters with the Governments concerned, raising the problems in the annual report of the Board, sending missions to the countries concerned and mentioning the conclusions of those missions in the annual report. Within that context, the Board has often requested certain Governments to provide explanations or to take remedial measures and has frequently drawn the attention of parties to the conventions, the Economic and Social Council and the Commission to particularly worrying situations. The Board has, until now, never made use of the final steps foreseen in article 14 of the 1961 Convention and article 19 of the 1971 Convention.

101. The possibility of "local enquiries" was included in the Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in, and Use of Opium, signed in 1953,¹⁵ but was not included in article 14 of the 1961 Convention and article 19 of the 1971 Convention. No provisions in the conventions, however, explicitly prevent the Board from undertaking missions in the context of situations warranting the implementation of either of those two articles. The Board believes that an explicit provision for conducting "local inquiries" of a more technical nature than those of its regular missions would be useful in the context of the measures to ensure the execution of the treaties.

B. Technical assistance

102. The Board, when it identifies shortcomings in treaty implementation, has the right to recommend that various forms of technical assistance should be provided by the United Nations system to a country to further the objectives of the 1961 Convention as amended by the 1972 Protocol.* The results and effectiveness of technical assistance provided to Governments to counteract illicit traffic and the abuse of drugs should be evaluated more systematically.

*See article 14 *bis* of the 1961 Convention as amended by the 1972 Protocol.

103. One major area of emphasis of technical assistance aimed at supply reduction is alternative development, which is embedded in the provisions of the 1988 Convention.* Alternative development contributes to the solution of precise and geographically limited problems of illicit cultivation. However, the Board wishes to stress that alternative development alone, without other strategies dealing with illicit drug demand and trafficking, like any other one-sided measure, will not be effective in combating the drug problem.

C. Importance of monitoring and promoting treaty implementation

104. The budget of the Board has experienced negative growth in real terms at the same time that its work has expanded (with, for example, the increased number of substances under control and the coming into force of the 1988 Convention). Nevertheless the Board has done its utmost to fulfil its obligations. The Board, given the financial resources available to it, does not consider itself to be adequately equipped to exercise its functions of monitoring all dimensions of treaty implementation and of assessing on a regular basis the effectiveness of the treaties. The Board has undertaken a review of the budget and staff resources needed for implementing its monitoring functions under the 1961 Convention, the 1971 Convention and the 1988 Convention and will make available the results of the assessment.

105. It is particularly important for national drug control legislation to be continuously reviewed and evaluated in a systematic manner in order to determine whether the provisions of the international drug control treaties are being implemented by Governments. The Board is not equipped at present to conduct such an analysis on a regular, country-by-country basis, though it does review the adequacy of national legislation during some of its missions and on the basis of the information it receives from Governments. The Commission on Narcotic Drugs will have before it at its thirty-eighth session a review by UNDCP of the implementation of the treaty provisions in national legislation, which the Board hopes will contribute to providing a basis for the beginning of a general evaluation. UNDCP is assisting countries in bringing their national legislation in line with the provisions of the international drug control treaties.

D. Implementation of the international drug control treaties as regards sanctions for drug offences

106. So far, there has not been a systematic evaluation of the extent to which Governments have, under domestic law, established as punishable offences the acts stipulated to be defined as such by the international drug control conventions or of whether Governments have provided for the appropriate sanctions in the spirit of the conventions.

107. On the question of legalization on the non-medical use of drugs, the Board, in its report for 1992,¹⁶ attempted to clarify the obligation of parties to the international drug control conventions. Parties to the conventions are required to establish as punishable offences under law the cultivation, purchase or possession of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the conventions. Article 3, paragraph 2, of the 1988 Convention stipulates that parties to that Convention should establish such acts as criminal offences. The conventions, however, do not require parties to apply the sanctions provided for in their domestic legislation. They allow parties to deal with drug abusers with alternative non-penal measures. In some countries, however, neither penal sanctions nor alternative measures are applied. Such ambiguous situations may be an entry point for de facto legalization of drugs and should be dealt with as a matter of urgency.

* Article 14, paragraph 3 (a), of the 1988 Convention states that parties to the Convention may cooperate to increase the effectiveness of eradication efforts and that such cooperation may include support, when appropriate, for integrated rural development leading to economically viable alternatives to illicit cultivation.

108. The Board wishes to underline the fact that the conventions provide for alternatives to conviction or punishment. In many circumstances, those alternatives provide a better instrument with which to deal with the problem of drug abuse, which imprisonment would not solve. Alternatives foreseen in the conventions include treatment, education, after-care, rehabilitation or social reintegration. Further to article 3 of the 1988 Convention, which is more specific on this aspect, such measures may be provided as alternatives to conviction or imprisonment, in minor cases and for offences of possession, purchase or cultivation for personal consumption, and in addition to conviction or imprisonment for other offences defined in that Convention. The extent to which Governments have actually provided such alternatives is not known. In addition, the conventions do not define precisely the scope and main characteristics of such alternatives, and there might be room for interpretations that would not be in line with the spirit of the conventions. At the request of the Commission on Narcotic Drugs, for its thirty-eighth session UNDCP is preparing a report on alternatives to incarceration.

IV. CONCLUSION

109. Each of the different international drug control conventions adopted during the past few decades was developed based on the particular situation that prevailed when it was designed. Each of their provisions is the outcome of various national or international drug control experiences, of the exchange of views and expertise, and of compromises between various national situations and priorities. The history of international drug control reflects its various stages of development, and each international instrument was a necessary condition for moving to the next stage and identifying, designing and implementing the provisions of the next instrument. The main drug control conventions are mutually supportive and none of them alone would be a perfect instrument. As mentioned in the preamble to the 1988 Convention, the parties to that Convention recognized the need to reinforce and supplement the measures provided in the 1961 Convention as amended by the 1972 Protocol and the 1971 Convention.

110. In the fight against drug abuse and illicit trafficking, the role of the international drug control conventions is of crucial importance. They constitute the legislative foundation of the United Nations drug control system and the basis for common efforts and mutual legal action involving all States. They create obligations for the overwhelming majority of States in the world and those States have accepted those obligations of their own will. There are four basic conditions that are necessary to ensure the efficacy of those conventions:

(a) The conventions require universal adherence. Loopholes in the global preventive network are constantly being exploited by criminal organizations. A serious problem in the implementation of the control system for psychotropic substances, in particular, stems from the fact that some major manufacturing and exporting countries have not yet acceded to the 1971 Convention. Indeed, a large part of the shortcomings of the international drug control system may be attributed to the fact that the conventions were meant to be universal but have not yet been universally adopted;

(b) Adherence is not enough; provisions of the international drug control treaties must be properly implemented at the national level. The treaty requirements must be regarded as minimum common denominators that must be supplemented by specific national measures. In many areas, national controls are below those minimum requirements. In particular, some countries, including States parties to the 1971 Convention, do not yet control international trade in all psychotropic substances. In some countries, difficulties in treaty implementation are related (a) to the absence of a special drug control administration to carry out the provisions of the conventions, which is essential to the effective coordination of drug control activities; and (b) to the lack of sufficiently trained and qualified personnel and of adequate financial resources for drug control administrations, because of the overall economic situation in some countries or the low government priority given to drug control. In addition, a number of developing countries find it difficult to enforce several treaty requirements, such as the control of imported narcotic drugs or psychotropic substances at national borders or the control of the internal distribution channel for pharmaceuticals, particularly for psychotropic substances. It is the duty and in the interest of every State to assist, within its capacity, other States by providing them with the necessary resources for the fulfilment of their national responsibilities. Demand reduction, supply reduction and the fight against illicit traffic, as well as cooperation and solidarity with other countries, constitute integral elements of the implementation of treaty requirements at the national level;

(c) Thorough implementation of treaty requirements at the international level, including cooperation among Governments and with the Board, is another key factor of efficient drug control. More specifically, the Board has repeatedly drawn the attention of the international community to the non-compliance of a number of Governments with the reporting requirements set by the international drug control conventions and the Economic and Social Council in its resolutions. Such non-compliance is often indicative of deficiencies in national drug control

systems and in national implementation of treaty provisions. With a view to facilitating overall reporting to the Board and the Secretary-General, the Commission on Narcotic Drugs and the Board have encouraged the use of electronic data transmission and storage. The associated problems of confidentiality and authenticity of the information submitted are being considered by the Board with the support of UNDCP;

(d) Drug abuse and illicit trafficking are dynamic processes; consequently, any effective responses to them must also be dynamic. The international drug control system depends not only on the adequate functioning of government authorities, but also on the proper functioning of international bodies and organizations (the Board, the Commission on Narcotic Drugs, UNDCP, WHO etc.) responsible for the rapid adaptation of that system to the fast-changing drug scene. The adoption of timely decisions on scheduling, the updating of treaty provisions, the incorporation of new drug control measures into the existing conventions, and the provision of appropriate and timely technical assistance to Governments to overcome difficulties constitute major areas to be focused on in order to ensure the efficacy of the global fight against illicit drug cultivation, production, manufacture, trade and abuse.

Notes

¹*Report of the International Narcotics Control Board for 1994* (United Nations publication, Sales No. E.95.XI.4).

²United Nations, *Treaty Series*, vol. 520, No. 7515.

³*Ibid.*, vol. 1019, No. 14956.

⁴*Ibid.*, vol. 976, No. 14152.

⁵*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988* (United Nations publication, Sales No. E.94.XI.5), vol. I.

⁶*Report of the International Narcotics Control Board for 1993* (United Nations publication, Sales No. E.94.XI.2), paras. 13-31.

⁷*Report of the International Conference on Drug Abuse and Illicit Trafficking, Vienna, 17-26 June 1986* (United Nations publication, Sales No. E.87.I.18), chap. I, sect. A.

⁸*Report of the International Narcotics Control Board for 1993 ...*, para. 23.

⁹*Report of the International Narcotics Control Board for 1992* (United Nations publication, Sales No. E.93.XI.1), paras. 13-24.

¹⁰See *Report of the International Narcotics Control Board for 1994 ...*, paras. 281-286.

¹¹*Report of the International Narcotics Control Board for 1992 ...*, paras. 25-28.

¹²*Report of the International Narcotics Control Board for 1993 ...*, para. 211.

¹³*Ibid.*, paras. 34-37.

¹⁴*Official Journal of the European Communities*, No. L 166/77.

¹⁵United Nations, *Treaty Series*, vol. 456, No. 6555.

¹⁶*Report of the International Narcotics Control Board for 1992 ...*, paras. 13-24.

THE ROLE OF THE INTERNATIONAL NARCOTICS CONTROL BOARD

The responsibilities of the International Narcotics Control Board under the international drug control treaties are to endeavour, in cooperation with Governments, to limit the cultivation, production, manufacture and use of narcotic drugs to the amounts required for medical and scientific purposes, to ensure that the quantities of those substances required for legitimate purposes are available and to prevent illicit drug cultivation, production, manufacture, trafficking and use. Since the entry into force of the Convention on Psychotropic Substances of 1971, the functions of the Board also include the international control of such drugs. Moreover, with the entry into force of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Board has specific responsibilities related to the control of substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, as well as the assessment of such substances for possible change in the scope of control of that Convention. Under the provisions of the 1988 Convention, the Board also reports annually to the Commission on Narcotic Drugs on the implementation of article 12 of that Convention.

The Board is required, in carrying out these responsibilities, to investigate all stages of the licit trade in narcotic drugs; to ensure that Governments take all the requisite measures to limit the manufacture and import of drugs to the quantities required for medical and scientific purposes; to see that precautions are taken to prevent the diversion of those substances into the illicit traffic; to determine whether there is a risk that a country may become a major centre of the illicit traffic; to ask for explanations in the event of apparent violations of the treaties; to propose appropriate remedial measures to Governments that are not fully applying the provisions of the treaties or are encountering difficulties in applying them and, where necessary, to assist Governments in overcoming such difficulties. The Board has therefore frequently recommended, especially since the adoption of the Single Convention on Narcotic Drugs of 1954 as amended by the 1972 Protocol, that multilateral or bilateral assistance, either technical or financial, or both, should be accorded to a country experiencing such difficulties. If, however, the Board notes that the measures necessary to remedy a serious situation have not been taken, it may call the matter to the attention of the parties, the Commission and the Economic and Social Council in cases where it believes that that would be the most effective way to facilitate cooperation and to improve the situation. As a last resort, the international drug control treaties empower the Board to recommend to parties that they stop importing drugs from the defaulting country, exporting drugs to it or both. Naturally, the Board does not confine itself to taking action only when serious problems have been discovered; on the contrary, it seeks to prevent major difficulties before they arise. In all cases the Board acts in close cooperation with Governments.

If the Board is to be able to perform its task, it must have the relevant information on the world drug situation as regards both licit trade and illicit traffic. Consequently, the international drug control treaties stipulate that Governments shall regularly provide the Board with such information; almost all Governments, parties and non-parties alike, are conforming to this practice. Accordingly, in cooperation with Governments, the Board administers the system of estimated world requirements of narcotic drugs and the system of statistics on narcotic drugs. The first of these systems enables the Board, in analysing future licit requirements, to verify in advance whether these requirements are reasonable; and the second enables it to exercise *ex post facto* control. Finally, the information on illicit traffic that is communicated to the Board either directly by Governments or through the competent organs of the United Nations system enables the Board to determine whether the aims of the 1954 Convention are being seriously endangered by any country and, if necessary, to take the measures described in the preceding paragraph.

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