



UNITED NATIONS
Office on Drugs and Crime

Regional Office for
South Asia

VOLUNTARY CODE OF CONDUCT (VCC) FOR TRADE AND INDUSTRY

FOR PREVENTING THE DIVERSION OF PRECURSORS AND ESSENTIAL
CHEMICALS NOTIFIED IN TABLE I & II OF THE UN CONVENTION AGAINST
ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES, 1988



Regional Precursor Control Project for South And South West Asia - (RAS H60)



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CONTENTS

FOREWORD	i
INTRODUCTION	iii
Model Voluntary Code of Conduct	
ARTICLE 1 – Objective	1
ARTICLE 2 – Tables of Chemical Substances	1
ARTICLE 3 – Scope	2
ARTICLE 4 – Maintenance of Records	2
ARTICLE 5 – Production	2
ARTICLE 6 – Storage & Handling	3
ARTICLE 7 – Despatch	4
ARTICLE 8 – Transportation	4
ARTICLE 9 – Marketing	5
ARTICLE 10 – Import/Export	6
ARTICLE 11 – Financial Transactions	6
ARTICLE 12 – Reporting of Irregular Transactions	7
ARTICLE 13 – Disposal of Precursor Chemicals	8
ARTICLE 14 – Non-Scheduled Substances	9
ARTICLE 15 – Mutual Cooperation	9
ARTICLE 16 – National Legislations	10
ARTICLE 17 – Confidentiality	10

ANNEXURES

ANNEX 1 – Provisions Related to Precursor Control in the Three UN Conventions on Narcotic Drugs & Psychotropic Substances	13
ANNEX 2 – United Nations General Assembly Special Session, 1998 Resolution on Precursor Control	19
ANNEX 3 – List of Substances included on the Limited International Special Surveillance List	26
ANNEX 4 – List of Substances in Table I & II of UN Convention 1988	27

FOREWORD

The role of law enforcement agencies in drug supply control is paramount and is acknowledged. But there are other players that can play an equally significant part. In this context, the role of industry and trade is crucial for they are in a position to be among the first to detect any attempt at diversion of precursors from the licit to the illicit channel.

India is the largest manufacturer of precursors in the region comprising South and South West Asia. It manufactures precursors which are most relevant to the region, such as acetic anhydride, ephedrine and pseudo ephedrine. There are other countries in the region which also manufacture precursors in small quantities. For example, Pakistan manufactures ephedrine and Bangladesh produces small quantities of hydrochloric acid and sulphuric acid. However, all countries in the region, irrespective of whether they are manufacturers or not, are importers of precursor chemicals which are required by them for legitimate use. Therefore, all countries in the region are consumers of precursors.

Unfortunately, there is no uniformity in the legal and administrative framework that countries in the region have adopted for precursor control. The implementation of the precursor control laws in the region is consequently uneven. While India, Pakistan and Bangladesh have adequate and competent working mechanism, other countries are at varying stages of setting up their legislative, administrative and operational structures.

In view of the above scenario, it is important for the industry and trade to self-regulate and thereby complement the effort of law enforcement agencies to prevent diversion of precursor chemicals.

This model Voluntary Code of Conduct proposed by the UNODC Project RAS H60 presents a comprehensive system of maintenance of records for manufacturers, agents, distributors, dealers, captive consumers/actual users, exporters, importers and transporters. It also recognizes the importance of cooperation between law enforcement and industry and trade, and suggests ways to foster and strengthen such cooperation.

The model Voluntary Code of Conduct was fully endorsed by the representatives of the Indian industry and trade during the Industry Meet convened by the UNODC in collaboration with the Narcotics Control Bureau, India on 12th October 2007 at New Delhi. They also resolved to form a core committee to formulate a revised VCC in India on the basis of this model. The Indian chemical

industry has already adopted a Voluntary Code of Conduct for acetic anhydride and ephedrine/pseudo ephedrine manufacturers.

I urge the Competent National Authorities of all the countries in South and South West Asia to encourage the industry and trade to adopt this model Voluntary Code of Conduct for better monitoring and control of precursors in their respective countries.



Gary Lewis
Representative
UNODC
Regional Office for South Asia

INTRODUCTION

United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 requires States to take the appropriate measures to prevent diversion of precursor chemicals and to cooperate with one another to this end. The Convention also lays down the basic framework for regulation of precursors in domestic and international trade. All the project countries are party to this convention. The earlier two UN Conventions - Single Convention on Narcotic Drugs, 1961 and the Convention on Psychotropic Substances, 1971 also urged parties to take measures to “use their best endeavours to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of drugs (psychotropic substances in the 1971 Convention), such measures of supervision as may be practicable”. All the project countries are also parties to these two conventions except Nepal and Bhutan. The Articles that deal with precursor control in these conventions are at Annex 1.

Precursor control is also one of the five areas identified as requiring a time-bound action in the UN General Assembly Special Session 1998 resolutions. Specific goals have been set for 2003 and 2008. The text of the resolution in respect of precursors is at Annex 2.

The strategy to achieve precursor control needs to be comprehensive and would be incomplete without enlisting the support of trade and industry since they represent the first line of defence and will be the first to identify any attempt of diversion of precursor chemicals manufactured by them.

It is, therefore, necessary for the law enforcement agencies to seek the cooperation of the trade and industry in preventing diversion of precursor chemicals. As part of the process of cooperation, it is important to emphasize to trade and industry the need for self-regulation of their processes of manufacturing, distribution, transportation, export, import and use of precursors.

This can be achieved through a Voluntary Code of Conduct (VCC) which the trade and industry should adopt and follow to supplement the efforts of law enforcement, and to ensure that the legitimate trade in the precursor chemicals is not hampered.

ARTICLE - 1

OBJECTIVE

The purpose of the VCC is to enable all manufacturers, dealers, distributors, actual users, exporters and importers of chemicals listed in both the tables of the UN Convention to establish and follow a common system in accounting production, sales/dispatches, marketing and financial transactions.

A major objective is to prevent the diversion of precursor chemicals for the illicit production of narcotic drugs and psychotropic substances without hampering legitimate transactions.

The cooperation of trade and industry is solicited to maintain constant vigil on the substances listed in the Limited International Special Surveillance List which is listed as Annex 3. The trade and industry can also recommend inclusion of other substances to the suspect list of chemicals for maintaining watch, keeping in mind their potential for misuse in the manufacture of narcotic drugs and psychotropic substances.

ARTICLE - 2

TABLES OF CHEMICAL SUBSTANCES

The substances listed in Table I and II of the 1988 UN Convention shall be identified by the names and corresponding numeric codes under which they are listed in the Harmonized Commodity Description and Coding System (HS) of the World Customs Organization (WCO) as in Annex 4. This classification should be used in the statistical records and in documents pertaining to production, manufacture, storage and handling, dispatch, transportation, marketing, importation, exportation and financial transactions.

The precursor chemicals referred in this Voluntary Code of Conduct and cooperation shall include all the substances listed in Table I & II of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 and wherever applicable, to the substances included in the Limited International Special Surveillance List. The countries can also adopt the VCC for other substances prone to misuse in the region or restrict it to the substances included in their respective national legislations.

The trade and industry in order to address regional needs and problems can also suggest for inclusion substances not listed in Table I & II of the UN Convention, 1988, for the purpose of maintaining watch, keeping in mind their potential for misuse in the manufacture of narcotic drugs and psychotropic substances.

ARTICLE 3

SCOPE

This model VCC will apply to the following categories of industry and trade:

- Manufacturers
- Agents, distributors and dealers
- Captive consumers/actual users
- Exporters
- Importers
- Transporters

The Competent National Authorities (CNAs) are required to maintain constant liaison with the above categories/members of the trade and industry for effective implementation and periodical updating of the VCC.

ARTICLE - 4

MAINTENANCE OF RECORDS

Personnel concerned with the categories mentioned in Article 3 above and dealing with the precursor chemicals are required to maintain statutory records as prescribed under their national legislation and follow the minimum procedures recommended below relating to the following:

- 1) Production
- 2) Storage and handling
- 3) Dispatch
- 4) Transportation
- 5) Marketing
- 6) Import/Export
- 7) Financial Transactions

The records so maintained are required to be preserved for a minimum period of TWO years.

ARTICLE - 5

PRODUCTION

The Production department should maintain and keep a daily record, for each precursor manufactured or captively used, which must include the following information:

1. Opening stock
2. Amounts produced/manufactured
3. Amounts sold/dispatched
4. Amounts imported
5. Amounts exported
6. Amounts lost, destroyed or reduced by effects such as shrinkage and other causes such as accidents, pilferage, manufacturing losses, etc.,
7. Amounts consumed internally
8. Closing stock

The quantity of the chemical must be recorded in prescribed weights and measures such as kilograms, liters etc.

The said record must be duly authenticated on a daily basis by the Head/Authorized Officer of the company. The company must declare the raw materials used, process flow chart and the input/output ratio relating to the manufacture of the precursor chemical. Similar declaration must be made by the captive consumers/actual users in relation to the precursor chemicals used by them. This may be done once in a year at the beginning of the fiscal year.

In the absence of laid down procedures for maintenance of records in a country, statutory records maintained under any other law/rule of the country giving all the above details may also be accepted as official record.

ARTICLE - 6

STORAGE AND HANDLING

The Precursor chemicals are required to be stored in secured containers/tanks in such a manner that physical checks and verification of the stock can be undertaken easily.

The tanks/containers must be labeled in bold letters giving details of the precursor chemicals stored in it.

Daily stock levels must be monitored internally by the Head/Authorized Officer of the company (including recording the temperature wherever necessary) and must be tallied with the statutory records maintained for the same.

The handling of the precursor chemicals must be restricted to specific persons deployed for the purpose to ensure that there is no pilferage.

Records must be maintained relating to storage, issue, receipt and such records are required to be audited internally at regular intervals.

Any loss of the substance in handling or due to environmental conditions such as temperature variations etc. must be recorded and reported to statutory authorities within the specified time frame.

ARTICLE - 7

DISPATCH

Dispatch of precursors must be made only on receipt of authorized dispatch advice or delivery order duly signed by the designated/authorized officer of marketing or logistics and permitted by the Stores In-charge.

Supply of the precursor must be made only against written purchase order from the purchaser.

Documentation must be maintained in regard to the dispatch by way of preparation of invoice/delivery challan which will include the following minimum information:

- a) Date of transaction
- b) Consignor and consignee name and address with telephone, facsimile numbers
- c) Description and quantity of the substance along with unit of measurement
- d) No. of bundles/packages/containers
- e) Means of transportation:
 - By road: Means of transportation used including vehicle registration number and identification of the transport company; Name of the driver with details of his driving license
 - By rail: Name and No. of the train, record of the document of the railway authorities
 - By air: Name of the air carrier with the flight number and Airway Bill number

The documents accompanying the precursor chemical must also contain in red bold letters that the recipient while acknowledging receipt of the precursor chemical undertakes to abide by the laws of the country relating to precursor control as well as the VCC for trade and industry.

ARTICLE - 8

TRANSPORTATION

Reliable and reputed transporters must be used for transporting the precursor chemicals.

Checks must be conducted in engaging drivers by these transporters who must possess a driving license and a Photo Identity issued by the transporter. If feasible, additional security guards may be engaged by the transporter or operator to accompany the vehicle transporting bulk consignments.

In case of tankers used for transporting the precursor chemical, they must be sealed with identifiable and tamper proof seals and the details of seals used must be recorded in the accompanying delivery documents.

In case of packed material, the substance must be packed in secured packages/containers serially numbered along with details of name of manufacturer, address, gross weight, tare weight and net weight. The packages/containers must be printed or labeled in bold letters indicating the substance contained in them. In cases of substances containing mixture or preparations of the precursor chemicals, the break up of the net weight of the precursor chemical and other salts along with the percentage of the chemical in the mixture must be mentioned separately.

The delivery documents must be prepared in quadruplicate. The original and duplicate copies are for the consignee, who will acknowledge on the duplicate copy and send it to the consignor within a specified time frame. The triplicate copy is for the transporter and the quadruplicate copy is for the record of the consignor.

The delivery must be made only at the address of the consignee or their assigned place of delivery mentioned in the delivery documents and not to any other place.

In addition to the delivery documents, statutory documents relating to the ownership and registration of the vehicle, containing details of the gross, tare and net weight of the vehicle, certification about its road worthiness, date of calibration, if any etc. must accompany the consignment.

The driving license and photograph of the driver of the vehicle must be scrutinized by the manufacturer/ Transport Company

Copies of the driving license, documents relating to the transporting vehicle must be obtained by the company engaging the transporter and kept as record to assist in future investigations.

Any loss of the substance during transportation like leakage due to wear and tear, accidents, etc., must be reported to the Competent Regulatory Authority immediately or to the nearest police station or any other statutory authority notified by the CNA of the country.

The above conditions must be followed, even when the company itself is carrying out the transportation.

ARTICLE - 9

MARKETING

The company while marketing the precursor chemicals, must follow the “KNOW YOUR CUSTOMER” (KYC) principle, obtain the following minimum information and verify it before delivery of the first consignment:

- a. Details of the name, address, contact telephone and facsimile numbers, email address of the purchaser
- b. The intended use and place of consumption by obtaining an End Use Certificate.
- c. Details of the statutory registration of the purchasing company with relevant authorities under the law in the country

- d. Letter of undertaking to the effect that they will comply with the rules and regulations/laws in the country as well as with the VCC

ARTICLE - 10

IMPORT/EXPORT

Consignments meant for export/import must be labeled clearly on the containers and the accompanying documents/ labels on the containers must include the following minimum information:

- a) Date of transaction
- b) Exporter and Importer's name and address with telephone, facsimile numbers
- c) Description and quantity of the substance along with unit of measurement
- d) No. of bundles/packages/containers
- e) Name of the chemical and corresponding numeric codes under which they are listed in the Commodity description and Coding System of the WCO for each chemical (Harmonized Code)
- f) Net weight or volume of the chemical, in kilograms or liters and fractions thereof
- g) Quantity and net weight of the drums, barrels or other containers or packing
- h) Place and country of origin and destination

Statutory shipping documents meant for export/import must be prepared and shall accompany the consignment. Wherever NOCs or import/export permits are issued by the National Competent Authorities, they must also be filed along with the shipping documents.

Basic verification regarding the existence of the importer must be done, as feasible

In cases of substances containing mixture or preparations of the precursor chemicals, the break up of the net weight of the precursor chemical and other salts along with the percentage of the chemical in the mixture must be mentioned separately.

In cases of export/ import of consignments from countries participating in the PEN (Pre-Export Notification) regime the details of the PEN issued as well as the outcome of the same must be indicated in the shipping documents.

ARTICLE - 11

FINANCIAL TRANSACTIONS

The following norms should be followed:

- No cash transactions
- Receipt of payments by cheque / demand draft or through normal banking channels only

Payments to be received direct from the purchaser and not through commission agents or intermediaries if these are not authorized prior to the sale

Follow proper accounting procedures of the financial transactions and periodical auditing to identify suspicious transactions

ARTICLE - 12

REPORTING OF IRREGULAR TRANSACTIONS

The companies engaged in the manufacture, preparation, processing, storage, distribution, importation, exportation, marketing and transportation of the chemicals listed in Table-I & II shall immediately report to the Competent National Authorities (CNAs) any transaction or proposed transaction to which they are parties when they have reasonable grounds to suspect that such chemicals may be used in the production, manufacture, preparation or extraction of illicit narcotic drugs or psychotropic substances. Reasonable grounds of suspicion are as follows:

Domestic Trade

1. Purchasers not willing to give all the required information and declarations
2. Purchaser's offer to pay much higher price for immediate supply.
3. Purchaser's offer of payment by cash only
4. Purchaser's offer to pick up supply in own vehicle
5. Walk-in-clients coming in person at the supplier's premises
6. Placement of orders for unusual large quantities
7. Placing order for special packing, especially in small containers
8. Request for delivery at a place other than the consignee address mentioned in delivery documents
9. Any order for abnormal quantities received from existing customers must be reported to the Competent National Authorities. Situations wherein the quantity ordered is more than double the normal order usually placed or any order in excess by 50kg/Litre can be viewed as abnormal quantity.

International Trade

The industry and trade must comply with provisions of their respective national legislations in regard to import/ export of the substances. Internationally, a Pre-Export Notification (PEN) regime is in place that requires CNAs to communicate an intended import/export to their concerned counterpart by issuing PEN in respect of the substances listed in Table I & II of the UN Convention, 1988.

The CNA of the exporting country informs the CNA of the importing country of the intended export. The latter is required to conduct verification of the bonafides of the importing company/importer and communicate their finding to the CNA of the exporting country within 15 days. On receipt of clearance from the importing country, the CNA of the exporting country issues a NOC for export of the substance. The CNA also notifies the countries through which the consignment transits to prevent diversion from normal trade.

In case no response is received within the stipulated time frame, the CNA of the exporting country permits the export.

The CNA may also stop the shipment from taking place in case it receives an adverse communication from the importing country before the actual export takes place.

On their part, the industry and trade must try to identify suspicious transactions during the course of their business in international trade. Reasonable grounds of suspicion are as follows:

1. Destination of the goods - Consignments destined to drug- producing region or areas adjoining a country known for illicit manufacture of drugs. The consignees in the border areas may be fictitious.
2. Beware of orders received through the internet
3. Requirement for the chemical in the importing country
4. Irregular ordering pattern
5. Is there a bona fide delivery address? Does the address indicate Post Office Box no?
6. Does the customer require it in an individual's name in the company or in the name of the company/ firm?
7. Orders received from importer based in a country with request to ship the consignment to a different country
8. Offer to pay full amount prior to export of the consignment
9. Request to ship the consignment through a specific carrier or to follow a specific route, which may not be the normal route
10. Documents such as import permits produced appear to be forged
11. Payments received from a country different from the destination of the goods
12. Customers not willing to enter into regular correspondence or continue to maintain contact
13. Conduct which is normally against good business practice

The industry and trade, whenever they come across a transaction involving one or more of the grounds referred to above, must immediately bring to the notice of the CNA such instances without any delay and also cooperate and assist in the follow-up investigation. A suspect transaction reporting format should be devised and all such transactions when reported to the CNAs may be shared at its discretion with the trade and industry.

The cooperation of the industry and trade in reporting suspect transactions will not only facilitate the CNAs / Regulatory / Enforcement authorities in preventing the diversion of the substances from licit trade and in identifying the persons involved, but will also protect the industry and trade in the event of backtrack investigation by the authorities.

ARTICLE - 13

DISPOSAL OF PRECURSOR CHEMICALS

The industry and trade must destroy or dispose of any of the substances or formulations or mixtures containing those substances only with the prior approval and under the supervision of the Regulatory Authority, in the manner prescribed by it.

ARTICLE - 14

NON SCHEDULED SUBSTANCES

Some of the substances used in the illicit drug manufacture that are listed in Tables I and II of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances have become especially difficult for traffickers to obtain as more and more States have implemented the provisions of that Convention. Traffickers have therefore sought to obtain chemicals that may be used as substitutes for those that are more closely monitored. They have found and used new methods for processing or manufacture, requiring substances that are currently not under international control.

The industry and trade must commit itself by showing responsibility for its actions and establish uniform procedures and a common approach to prevent the diversion of the substances included in the Limited International Special Surveillance List. They must also consider:

To provide the necessary education to staff and, where practical, to end-users; to sensitize and raise their understanding of the use of the substances included in the limited international special surveillance list in illicit drug manufacture; and to create a greater awareness of the need to adopt measures to prevent the diversion from licit channels to the illicit traffic of such substances

To nominate one or more liaison officers to ensure that appropriate systems and procedures are introduced and maintained including reporting of suspicious orders and inquiries, and train staff to identify suspicious inquiries and orders to facilitate implementation of the monitoring programmes

To encourage a climate of self regulation and to develop a culture of active participation with the relevant Competent National Authorities, whereby suspicion and not regulatory control, forms the basis of initiating investigations

ARTICLE - 15

MUTUAL COOPERATION

The Competent National Authorities and the members of the industry and trade should foster a spirit of mutual cooperation. While the industry and trade should comply with the requirements of the regulatory mechanism on precursor control and assist the enforcement authorities in the investigation of diversion cases, the regulatory and enforcement authorities should create awareness on the need for exercising precursor chemical control and enhance their knowledge by educating the management and staff to identify suspicious transactions while updating them on the recent trends adopted by the illegal drug trade in the use of chemicals for the manufacture of drugs. The industry and trade should nominate one or more liaison officers at field level to facilitate timely sharing of information on suspicious orders and its investigation.

ARTICLE - 16

NATIONAL LEGISLATIONS

The procedures prescribed above may be followed complementing the provisions already laid down in the respective national legislations. Wherever procedures prescribed above appear to be contrary to the procedures laid down under the national legislation, the procedures laid down in the respective national legislation shall prevail.

ARTICLE - 17

CONFIDENTIALITY

All information provided shall be treated as confidential and not divulged to any person save and except for law enforcement, judicial or internal control purposes, or for international cooperation.

The CNAs of each country must hold periodical meetings with the industry and trade and update the Voluntary Code of Conduct by including/ excluding practices depending upon the situation prevailing in each country.

This model VCC is not exhaustive and countries may amend/include/exclude specific procedures as per their legal regimes or needs.

ANNEXURES

1

ANNEX

PROVISIONS RELATED TO PRECURSOR CONTROL IN THE THREE UN CONVENTIONS ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

I. SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

Article 2 Para 8

“The Parties shall use their best endeavors to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of drugs, such measures of supervision as may be practicable.”

Article 3

CHANGES IN THE SCOPE OF CONTROL

1. Where a Party or the World Health Organization has information which in its opinion may require an amendment to any of the Schedules, it shall notify the Secretary-General and furnish him with the information in support of the notification.
2. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission, and, where the notification is made by a Party, to the World Health Organization.
3. Where a notification relates to a substance not already in Schedule I or in Schedule II,
 - i. The Parties shall examine in the light of the available information the possibility of the provisional application to the substance of all measures of control applicable to drugs in Schedule I;
 - ii. Pending its decision as provided in subparagraph iii) of this paragraph, the Commission may decide that the Parties apply provisionally to that substance all measures of control applicable to drugs in Schedule I. The Parties shall apply such measures provisionally to the substance in question;
 - iii. If the World Health Organization finds that the substance is liable to similar abuse and productive of similar ill effects as the drugs in Schedule I or Schedule II or is convertible into a drug, it shall communicate that finding to the Commission which

may, in accordance with the recommendation of the World Health Organization, decide that the substance shall be added to Schedule I or Schedule II.

4. If the World Health Organization finds that a preparation because of the substances which it contains is not liable to abuse and cannot produce ill effects (paragraph 3) and that the drug therein is not readily recoverable, the Commission may, in accordance with the recommendation of the World Health Organization, add that preparation to Schedule III.
5. If the World Health Organization finds that a drug in Schedule I is particularly liable to abuse and to produce ill effects (paragraph 3) and that such liability is not offset by substantial therapeutic advantages not possessed by substances other than drugs in Schedule IV, the Commission may, in accordance with the recommendation of the World Health Organization, place that drug in Schedule IV.
6. Where a notification relates to a drug already in Schedule I or Schedule II or to a preparation in Schedule III, the Commission, apart from the measure provided for in paragraph 5, may, in accordance with the recommendation of the World Health Organization, amend any of the Schedules by: a) Transferring a drug from Schedule I to Schedule II or from Schedule II to Schedule I; or b) Deleting a drug or a preparation as the case may be, from a Schedule.
7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States parties to this Convention, to the World Health Organization and to the Board. Such decision shall become effective with respect to each Party on the date of its receipt of such communication, and the Parties shall thereupon take such action as may be required under this Convention.
8. a) The decisions of the Commission amending any of the Schedules shall be subject to review by the Council upon the request of any Party filed within ninety days from receipt of notification of the decision. The request for review shall be sent to the Secretary-General together with all relevant information upon which the request for review is based;
b) The Secretary-General shall transmit copies of the request for review and relevant information to the Commission, the World Health Organization and to all the Parties inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration;
c) The Council may confirm, alter or reverse the decision of the Commission, and the decision of the Council shall be final. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to non-member States Parties to this Convention, to the Commission, to the World Health Organization, and to the Board;
d) During pendency of the review the original decision of the Commission shall remain in effect.
9. Decisions of the Commission taken in accordance with this article shall not be subject to the review procedure provided for in article 7.

II. CONVENTION ON PSYCHOTROPIC SUBSTANCES, 1971

Article 2 Para 9

“The Parties shall use their best endeavors to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of psychotropic substances, such measures of supervision as may be practicable.”

III. UN CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, 1988

Article 3, Para 1(a)

Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

- i. The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;
- ii. The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;
- iii. The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;
- iv. The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
- v. The organization, management or financing of any of the offences enumerated in (i), (ii), (iii) or (iv) above;

Article 3, Para 4(a)

Each Party shall make the commission of the offences established in accordance with paragraph 1 of this article liable to sanctions, which take into account the grave nature of these offences, such as imprisonment or other forms of deprivation of liberty, pecuniary sanctions and confiscation.

Article 12

SUBSTANCES FREQUENTLY USED IN THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES

1. The Parties shall take the measures they deem appropriate to prevent diversion of substances in Table I and Table II used for the purpose of illicit manufacture of narcotic drugs or

psychotropic substances, and shall co-operate with one another to this end.

2. If a Party or the Board has information which in its opinion may require the inclusion of a substance in Table I or Table II, it shall notify the Secretary-General and furnish him with the information in support of that notification. The procedure described in paragraphs 2 to 7 of this article shall also apply when a Party or the Board has information justifying the deletion of a substance from Table I or Table II, or the transfer of a substance from one Table to the other.
3. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission, and, where notification is made by a Party, to the Board. The Parties shall communicate their comments concerning the notification to the Secretary-General, together with all supplementary information which may assist the Board in establishing an assessment and the Commission in reaching a decision.
4. If the Board, taking into account the extent, importance and diversity of the licit use of the substance, and the possibility and ease of using alternate substances both for licit purposes and for the illicit manufacture of narcotic drugs or psychotropic substances, finds:
 - a) That the substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance;
 - b) That the volume and extent of the illicit manufacture of a narcotic drug or psychotropic substance creates serious public health or social problems, so as to warrant international action, it shall communicate to the Commission an assessment of the substance, including the likely effect of adding the substance to either Table I or Table II on both licit use and illicit manufacture, together with recommendations of monitoring measures, if any, that would be appropriate in the light of its assessment.
5. The Commission, taking into account the comments submitted by the Parties and the comments and recommendations of the Board, whose assessment shall be determinative as to scientific matters, and also taking into due consideration any other relevant factors, may decide by a two-thirds majority of its members to place a substance in Table I or Table II.
6. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States and other entities which are, or which are entitled to become, Parties to this Convention, and to the Board. Such decision shall become fully effective with respect to each Party one hundred and eighty days after the date of such communication.
7.
 - a) The decisions of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within one hundred and eighty days after the date of notification of the decision. The request for review shall be sent to the Secretary-General, together with all relevant information upon which the request for review is based.
 - b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the Board and to all the Parties, inviting them to submit their comments within ninety days. All comments received shall be submitted to the Council for consideration.

- c) The Council may confirm or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States and other entities which are, or which are entitled to become, Parties to this Convention, to the Commission and to the Board.
8. a) Without prejudice to the generality of the provisions contained in paragraph 1 of this article and the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the Parties shall take the measures they deem appropriate to monitor the manufacture and distribution of substances in Table I and Table II which are carried out within their territory.
- b) To this end, the Parties may:
- i. Control all persons and enterprises engaged in the manufacture and distribution of such substances;
 - ii. Control under license the establishment and premises in which such manufacture or distribution may take place;
 - iii. Require that licensees obtain a permit for conducting the aforesaid operations;
 - iv. Prevent the accumulation of such substances in the possession of manufacturers and distributors, in excess of the quantities required for the normal conduct of business and the prevailing market conditions.
9. Each Party shall, with respect to substances in Table I and Table II, take the following measures:
- a) Establish and maintain a system to monitor international trade in substances in Table I and Table II in order to facilitate the identification of suspicious transactions. Such monitoring systems shall be applied in close co-operation with manufacturers, importers, exporters, wholesalers and retailers, who shall inform the competent authorities of suspicious orders and transactions.
 - b) Provide for the seizure of any substance in Table I or Table II if there is sufficient evidence that it is for use in the illicit manufacture of a narcotic drug or psychotropic substance.
 - c) Notify, as soon as possible, the competent authorities and services of the Parties concerned if there is reason to believe that the import, export or transit of a substance in Table I or Table II is destined for the illicit manufacture of narcotic drugs or psychotropic substances, including in particular information about the means of payment and any other essential elements which led to that belief.
 - d) Require that imports and exports be properly labeled and documented. Commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names, as stated in Table I or Table II, of the substances being imported or exported, the quantity being imported or exported, and the name and address of the exporter, the importer and, when available, the consignee.

- e) Ensure that documents referred to in subparagraph (d) of this paragraph are maintained for a period of not less than two years and may be made available for inspection by the competent authorities.
10. a) In addition to the provisions of paragraph 9, and upon request to the Secretary-General by the interested Party, each Party from whose territory a substance in Table I is to be exported shall ensure that, prior to such export, the following information is supplied by its competent authorities of the competent authorities of the importing country:
- i. Name and address of the exporter and importer and, when available, the consignee;
 - ii. Name of the substance in Table I;
 - iii. Quantity of the substance to be exported;
 - iv. Expected point of entry and expected date of dispatch;
 - v. Any other information which is mutually agreed upon by the Parties.
- b) A Party may adopt more strict or severe measures of control than those provided by this paragraph if, in its opinion, such measures are desirable or necessary.
11. Where a Party furnishes information to another Party in accordance with paragraphs 9 and 10 of this article, the Party furnishing such information may require that the Party receiving it keep confidential any trade, business, commercial or professional secret or trade process.
12. Each Party shall furnish annually to the Board, in the form and manner provided for by it and on forms made available by it, information on:
- a) The amounts seized of substances in Table I and Table II and, when known, their origin;
 - b) Any substance not included in Table I or Table II which is identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances, and which is deemed by the Party to be sufficiently significant to be brought to the attention of the Board;
 - c) Methods of diversion and illicit manufacture.

2

ANNEX

UNITED NATIONS GENERAL ASSEMBLY SPECIAL SESSION 1988 RESOLUTION ON PRECURSOR CONTROL.

MEASURES TO ENHANCE INTERNATIONAL COOPERATION TO COUNTER THE WORLD DRUG PROBLEM ADOPTED AT THE UNGA SPECIAL SESSION, 1998

Control of precursors

The General Assembly,

Recognizing the fact that, in recent years, the diversion of precursors has become one of the most serious phenomena in the field of illicit drug manufacture,

Noting that the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 provide the international basis for drug and precursor control,

Reaffirming the importance of preventing the diversion of chemicals from legitimate commerce to illicit drug manufacture as an essential component of a comprehensive strategy against drug abuse and trafficking,

Recognizing that combating this phenomenon calls for the adoption and effective application of strict and modern laws that make it possible to prevent and penalize such criminal conduct, as well as for the establishment of efficient and fully trained investigatory bodies and organs of justice that possess the human and material resources required to deal with the problem,

Noting the special problem posed by synthetic drugs, which can be manufactured illicitly in a variety of forms using chemicals, many of which can be easily substituted,

Noting also the progress made in developing practical guidelines for the implementation of the international drug control conventions, in particular the International Narcotics Control Board Guidelines for Use by National Authorities in Preventing the Diversion of Precursors and Essential Chemicals, and the annex entitled "Summary of the Recommendations of the International Narcotics Control Board relevant to implementation by Governments of article 12 of the 1988 Convention", which appears annually in the report of the International Narcotics Control Board on the

implementation of article 12 of the 1988 Convention,

Conscious of the progress made in controlling shipments of precursors as a result of cooperation between the competent national authorities in a number of States, and of the important work conducted by the International Narcotics Control Board in facilitating that cooperation, and in assisting Governments in verifying the legitimacy of individual transactions to prevent their diversion to illicit traffic,

Conscious also of the fact that many States lack sufficient resources to conduct in-depth investigations that would enable them to determine the legitimacy of transactions,

Considering that experience in precursor control demonstrates that multilateral exchange of information between competent national authorities of all States concerned, as well as the international organizations concerned, supplemented by bilateral and regional agreements for information-sharing where necessary, is essential to preventing the diversion of precursors,

Deeply concerned that drug traffickers continue to have access to the precursors required for the illicit manufacture of drugs, including substances listed in Tables I and II of the 1988 Convention, as well as other substances that are used as substitutes,

Considering that measures against the diversion of precursors can be effective only through concerted worldwide action and international cooperation guided by common principles and objectives,

Decides to adopt the measures to prevent the illicit manufacture, import, export, trafficking, distribution and diversion from licit channels to the illicit traffic of precursors used in the illicit manufacture of narcotic drugs and psychotropic substances, including substitute chemicals, as well as additional measures to enhance international cooperation in precursor control, which are presented below.

I. MEASURES TO PREVENT THE ILLICIT MANUFACTURE, IMPORT, EXPORT, TRAFFICKING AND DISTRIBUTION OF PRECURSORS USED IN THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

A. Legislation and national control systems

Problem

1. The necessary actions to be taken by States to prevent diversion, and the success of those actions in identifying attempted diversions and stopping shipments, are possible only if States have established an adequate legislative basis or system of control that allows them to effectively monitor the movement of precursors. Further, mechanisms and procedures must be established for effective implementation of the legislation in place.
2. In order to establish effective systems of control, States need to identify competent national authorities and their specific roles and to share that information with other States. They also need to share details of the actual control measures applied.
3. Many States have not yet taken those necessary steps.

Action

4. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:
 - a) Adopt and implement, where they have not already done so, the necessary national laws and regulations required for strict compliance with the provisions and proposals of article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and related resolutions of the Commission on Narcotic Drugs and the Economic and Social Council, including, in particular, the establishment of a system of control and licensing of the enterprises and persons engaged in the manufacture and distribution of substances listed in Tables I and II of the 1988 Convention and a system for monitoring the international trade in such substances for the purpose of facilitating the detection of suspicious shipments, and designate competent national authorities responsible for implementing such controls;
 - b) Review regularly, and take appropriate steps to strengthen existing precursor controls should any weaknesses be identified, giving full consideration to the related recommendations of the International Narcotics Control Board as contained in the annual reports of the Board on the implementation of article 12 of the 1988 Convention;
 - c) Adopt penal, civil or administrative measures for punishing, in accordance with their legislative provisions, as a criminal offence in the sense of article 3 of the 1988 Convention, the unlawful conduct of individuals or companies in connection with the diversion of precursors from legitimate commerce into the illicit manufacture of drugs;
 - d) Exchange experience on procedures for the adoption of legislation and on the application of measures for combating and punishing illicit traffic in, and diversion of, precursors, including the use, where appropriate, of controlled deliveries;
 - e) Submit timely reports to the International Narcotics Control Board on national regulations adopted to control the export, import and transit of precursors, including details of the requirements that have to be met for the authorization of imports and exports;
 - f) Adopt the necessary measures to ensure that the disposal of seized chemicals has no harmful effect on the environment.

B. Information exchange

Problem

5. Rapid and timely information exchange between importing and exporting States is the key to effective precursor control, allowing States to verify the legitimacy of individual transactions and identify suspicious shipments in order to prevent the diversion of precursors. Many States have not yet established systematic mechanisms to ensure such rapid communication exchange, including timely feedback, with other competent national authorities, and with the International Narcotics Control Board, even on a confidential basis.
6. Similarly, traffickers quickly turn to sources in other States when they are denied the chemicals that

they require. Experience has confirmed the importance of immediately sharing information on diversion attempts and suspicious transactions or stopped shipments with other States, and with the International Narcotics Control Board, in order to counter such attempts elsewhere.

Action

7. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:
 - a) Improve their mechanisms and procedures for monitoring trade in precursors, including the following actions:
 - i. Regular exchange of information between exporting, importing and transit States, and with the International Narcotics Control Board, on exports of precursors before they take place, including, in particular, the provision by exporting States of pre-export notification to the competent authorities in importing countries for all transactions involving the substances in Table I and, in addition to the requirements of article 12, paragraph 10, of the 1988 Convention, acetic anhydride and potassium permanganate, and notification of the Secretary-General upon the request of the importing country. Recognizing the importance and usefulness of pre-export notifications for combating effectively the illicit production of narcotic drugs, psychotropic substances and, particularly, of amphetamine-type stimulants, the same efforts should be made with regard to the remaining substances listed in Table II. These measures should complement tight domestic controls in all countries, which are also necessary to ensure the prevention of diversion of precursor chemicals;
 - ii. Promotion of the implementation, by competent national authorities, of mechanisms to verify the legitimacy of transactions before they take place, including the exchange of information on the legitimate domestic need for the chemical; timely feedback to exporting States by States that have received pre-export notifications; and provision by exporting States, when requested by the importing State, to allow adequate time - to the extent possible up to fifteen days - to verify the legitimate end-use;
 - iii. Exchange of information between exporting, importing and transit States, and with the International Narcotics Control Board, on suspicious transactions involving precursors and, where appropriate, on seizures effected and denials made;
 - b) Keep confidential any industrial, business, commercial or professional secrets or trade processes contained in the reports provided by States on the export, import or transit and intended use of precursors, in accordance with the provisions of article 12, paragraph 11, of the 1988 Convention. Where necessary, an appropriate legal framework should be set up to ensure the suitable protection of personal data;
 - c) Notify, as rapidly as possible, the International Narcotics Control Board, and the other States concerned as they consider necessary, of any decisions to deny a permit for the shipment of a precursor if it has not been possible to verify the legitimacy of a transaction, whether an import, export or trans-shipment, providing all relevant information for the reasons for the

denial, so that other States may consider taking a similar course of action. Whenever an importing, exporting, or transit State is considering issuing a permit for shipment, it should make its decision with due assessment of all the elements of the case, and in particular of any such information provided to it by the State that has denied the issue of a permit for that shipment.

C. Data collection

Problem

8. Information on the normal patterns of legitimate trade and on the licit uses of, and requirements for, precursors is necessary to verify the legitimacy of individual transactions. Without such information, it is difficult to monitor the movement of precursors as required under article 12 of the 1988 Convention. Many States are not yet able to collect data on the licit movement of precursors. The inability to do so may indicate that the framework and systems for adequate control are not in place, and that competencies in the field of precursor control have not been clearly defined.

Action

9. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:
 - a) Design and establish flexible and effective mechanisms, where they do not already exist, subject to provisions for confidentiality and data protection, for obtaining data on the licit manufacture, import or export of precursors, and on any other activity related to the trade in precursors and for monitoring the movement of such substances, including the establishment of a register of public or private companies engaged in any activity relating thereto, which are to report suspicious orders for, or cases of theft of, precursors and to cooperate at all times with the competent national authorities;
 - b) Establish or strengthen cooperation with associations of the chemical trade and industry, and with persons or companies engaged in any activity related to precursors, for example, through the establishment of guidelines or a code of conduct, to intensify efforts aimed at controlling such substances;
 - c) Establish the principle of "know your client" for those who manufacture or market chemicals in order to improve the exchange of information.

II. TOWARDS MORE UNIVERSAL INTERNATIONAL COOPERATION IN PRECURSOR CONTROL

Problem

10. Achievements in preventing the diversion of precursors have been due to the activities of a growing, but still relatively small, number of Governments of exporting, importing and transit States and territories worldwide.

11. Those States have taken specific steps to monitor the movement of precursors through their territories, even when they do not have comprehensive legislation for precursor control in place. However, many States have not yet developed adequate systems for precursor control, in spite of the fact that traffickers have exploited as points of diversion those countries and territories where controls are inadequate. Controls do not serve their purpose if all States facing similar situations with regard to the trafficking of precursors do not take similar practical steps to ensure that diversion attempts are identified or do not share their experiences in implementing controls. More uniform action is required by all States to limit the availability to traffickers of the precursors required for illicit drug manufacture.

Action

12. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

- a) Institutionalize uniform procedures to facilitate the widespread, multilateral exchange of information on suspicious transactions and stopped shipments in the course of implementing national precursor control laws and regulations based on the international drug control conventions and related resolutions, guidelines and recommendations in such a way as to complement bilateral or regional agreements;
- b) Promote multilateral arrangements that encourage the exchange of essential information for effective monitoring of the international trade in precursors, to complement similar bilateral or regional agreements, with special emphasis on devising practical systems for sharing information on individual transactions;
- c) Disseminate more systematic information on the ways and means used by criminal organizations for illicit trafficking in, and diversion of, precursors, with a view to adopting measures to prevent such illicit activities, in accordance with article 12, paragraph 12 (c), of the 1988 Convention;
- d) Promote technical assistance programmes for States upon request, according the highest priority to those with the least resources, for the purpose of strengthening control of precursors and avoiding their diversion for illicit purposes;
- e) Promote the exchange of experience relating to police, customs and other administrative investigation, interception, detection and control of diversion of precursors;
- f) Organize expert meetings, where necessary, on combating the illicit traffic in, and diversion of, precursors in order to promote professional skills and raise levels of expertise.

III. SUBSTITUTE CHEMICALS

Problem

13. Some of the substances required for illicit drug manufacture that are listed in Tables I and II of the 1988 Convention have become especially difficult to obtain as a result of the implementation of the provisions of that Convention. Traffickers have successfully sought to obtain chemicals that

may be used as substitutes for those that are more closely monitored. In addition, they have identified and used new methods for processing or manufacture, requiring substances currently not listed in Tables I and II of the 1988 Convention. They have also manufactured so-called controlled drug analogues, many of which again require as starting material substances currently not listed in Tables I and II.

Action

14. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:
 - a) Cooperate with the International Narcotics Control Board in the preparation of a limited international special surveillance list of substances currently not in Tables I and II of the 1988 Convention and for which substantial information exists of their use in illicit drug-trafficking, as requested by the Economic and Social Council in its resolution 1996/29, section I, of 24 July 1996, contributing to the maintenance of that list by informing the Board on a regular basis, in accordance with article 12, paragraph 12, of non-scheduled substances that have been diverted from licit channels to illicit traffic and promoting studies of the potential use of non-scheduled substances with a view to the timely identification of any that could be used in the illicit manufacture of drugs;
 - b) Apply monitoring measures, whether voluntary, administrative or legislative, in cooperation with the chemical industry, so as to prevent the diversion from licit channels to illicit traffic of substances included on the special surveillance list, including specific monitoring measures for those substances that are relevant at the national or regional levels. In addition, States shall consider punishing, as a criminal offence in the sense of article 3 of the 1988 Convention, the diversion of non-scheduled chemical substances with the knowledge that they are intended for use in the illicit manufacture of narcotic drugs or psychotropic substances, and introducing related penal, civil and administrative sanctions.

3

ANNEX

LIST OF SUBSTANCES INCLUDED ON THE LIMITED INTERNATIONAL SPECIAL SURVEILLANCE LIST*

1. Precursors and reagents used in the illicit manufacture of amphetamine, type stimulants, and other psychotropic substances

Acetonitrile
Allylbenzene
Ammonia (including aqueous solutions)
Ammonium formate
Benzaldehyde
Benzyl chloride
Benzyl cyanide
Ethylamine (monoethylamine)
Formamide
Formic acid
Hydriodic acid
Lithium aluminium hydride
Methylamine (monomethylamine)
Methylethylamine
N-Methylformamide
Nitroethane
o-Toluidine

2. Chemicals used for illicit processing of cocaine and heroin

Acetic acid (glacial)
Calcium oxide
Potassium carbonate
Sodium carbonate
Sodium hydroxide
Sodium hypochlorite

3. Solvents used for illicit processing of cocaine and heroin

Benzene
Ethyl acetate
Methyl isobutyl ketone

*including also the salts, optical isomers and salts of optical isomers of the substances listed, whenever the existence of such salts and isomers is possible.

4

ANNEX

LIST OF SUBSTANCES IN TABLE I & II ALONGWITH HARMONIZED CODETABLE - I

Harmonized Code	Product
2924.22	N-Acetylanthranilic acid
2915.24	Acetic anhydride
2939.41	Ephedrine
2939.61	Ergometrine
2939.62	Ergotamine
2932.91	Isosafrole
2939.63	Lysergic acid
2932.92	3,4-Methylenedioxyphenyl-2-propanone
2922.19	Norephedrine
2914.31	1-phenyl-2-propanone
2932.93	Piperonal
2841.61	Potassium permanganate
2939.42	Pseudoephedrine
2932.94	Safrole

TABLE - II

Harmonized Code	Product
2914.11	Acetone
2922.43	Anthranilic acid
2909.11	Ethyl ether
2806.10	Hydrochloric acid *
2914.12	Methyl ethyl ketone (MEK)
2916.34	Phenylacetic acid
2933.32	Piperidine
2807.00	Sulphuric acid *
2902.30	Toluene

*With the exception of hydrochloric acid and sulphuric acid the salts of the substances listed in the Tables of the Convention, whenever the existence of such salts is possible, are also controlled.

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