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Commission on Narcotic Drugs

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Implementation of the international drug control treaties

Colombia, France¹, Honduras, Paraguay, United States of America and Uruguay: draft resolution

Intensifying efforts to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors

The Commission on Narcotic Drugs,

Reaffirming our commitment to achieving the goals and objectives of, and implementing the obligations arising from the Single Convention on Narcotic Drugs of 1954 as amended by the 1972 Protocol,² the Convention on Psychotropic Substances of 1971³ and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,⁴

Reiterating its deep concerns about the magnitude of and rising trend in the illicit production and manufacture of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health, welfare, and safety of human beings and adversely affect the economic, cultural and political foundations of society,

Reaffirming our unwavering commitment to ensuring that all aspects of demand reduction and related measures, supply reduction and related measures, and international cooperation are addressed in full conformity with the purposes and principles of the Charter of the United Nations, international law and the Universal Declaration of Human Rights, with full respect for the sovereignty and territorial integrity of States, the principle of non-intervention in the internal affairs of States, all human rights, fundamental freedoms, the inherent dignity of all individuals and the principles of equal rights and mutual respect among States,

Reaffirming our commitment to strengthening our efforts in addressing and countering emerging and persistent challenges and threats of all aspects of the world drug problem, and note the need to effectively respond to the evolving reality, trends

* E/CN.7/2022/1.

¹ On behalf of the States Members of the United Nations that are members of the European Union

² United Nations, *Treaty Series*, vol. 976, No. 14152.

³ *Ibid.*, vol. 1019, No. 14956.

⁴ *Ibid.*, vol. 1582, No. 27627.

and existing circumstances through comprehensive, integrated and balanced drug control policies and programmes that take into account their transnational implications and that are in conformity with the three international drug control conventions and other relevant international instruments, and to strengthen our international, regional and subregional cooperation,

Recognizing that the world drug problem remains a common and shared responsibility that should be addressed in a multilateral setting through effective and increased international cooperation and demands an integrated, multidisciplinary, mutually reinforcing, balanced, scientific evidence-based and comprehensive approach,

Reiterating its resolve, in the framework of existing policy documents, inter alia, to prevent, significantly reduce and work towards the elimination of the diversion of and illicit trafficking in precursors,

Acknowledging that non-scheduled chemicals are chemicals which are not included in Table I or Table II of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, some of which may be used in the illicit manufacture of narcotic drugs and psychotropic substances, and may also include designer precursors, which are close chemical relatives of controlled precursors that are purpose-made to circumvent controls, can easily be converted into a controlled substance and usually do not have any recognized legitimate use and are not widely traded,

Concerned by the challenges that uncontrolled chemicals, including designer precursors, pose to international drug control efforts, and recognizing that while adding priority chemicals to the tables of the 1988 Convention remains the most effective measure to achieve global action in this regard, international scheduling is often followed by a decrease in the number of seizure incidents involving those chemicals and the emergence of alternative uncontrolled precursors,

Taking into account the challenges arising from, inter alia, the COVID-19 pandemic, and those faced by some Member States in addressing and countering the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors, as well as the rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances,

Taking note of the *Report of the International Narcotics Control Board for 2021*,⁵ in which the Board recognized that there were virtually no limitations to the range of chemicals and manufacturing methods that could potentially be employed in illicit drug manufacture, especially synthetic drug manufacture, and that the persisting appearance of non-scheduled chemicals and designer precursors in illicit drug manufacture is widely understood as a key challenge to the international precursor control system,

Mindful that under article 21 of the 1988 Convention the Commission is authorized to consider all matters pertaining to the aims of the convention and, in particular, it shall review the operation of the convention on the basis of the information submitted by the Parties in accordance with article 20, may make suggestions and general recommendations based on the examination of the information received from the Parties, may call the attention of the INCB to any matters which may be relevant to the functions of the INCB, shall take action as it deems appropriate on any matter referred to it by the Board under article 22, paragraph 1(b), may amend Table I and Table II in conformity with the procedures laid down in article 12, and may draw the attention of non-Parties to decisions and recommendations which it adopts under the convention, with a view to their considering taking action in accordance therewith,

⁵ E/INCB/2021/1.

Mindful also of the treaty mandated responsibility of the Commission under article 12, including paragraph 13 of the 1988 Convention to periodically review the adequacy and propriety of Table I and Table II,

Underscoring, in accordance with article 2, paragraph 8, of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol and article 2, paragraph 9, of the Convention on Psychotropic Substances of 1971, that the parties to those conventions shall use their best endeavours to apply to substances which do not fall under those conventions, but which may be used in the illicit manufacture of drugs and psychotropic substances, respectively, such measures of supervision as may be practicable,

Underscoring also, in accordance with article 3 of the 1988 Convention, that each party to that Convention shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, inter alia, 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,

Underscoring further, in accordance with article 13 of the 1988 Convention, that the parties to that Convention shall take such measures as they deem appropriate to prevent trade in and the diversion of materials and equipment for illicit production or manufacture of narcotic drugs and psychotropic substances and shall co-operate to this end

Recalling article 12, para 4 of the 1988 Convention, which stipulates that if the INCB, 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 manufacture of narcotic drugs and psychotropic substances, finds that a substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance, or 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 that 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 light of its assessment, while bearing in mind also article 22 of the same Convention, which outlines functions of the INCB under that Convention,

Recalling the Ministerial Declaration on Strengthening Our Actions at the National, Regional and International Levels to Accelerate the Implementation of Our Joint Commitments to Address and Counter the World Drug Problem,⁶ adopted at the ministerial segment of its sixty-second session, in 2019, in which Member States expressed their concern, inter alia, that the abuse, illicit cultivation and production and manufacture of narcotic drugs, as well as the illicit trafficking in those substances and in precursors, had reached record levels, and that the illicit demand for and the domestic diversion of precursor chemicals were on the rise,

Recalling the outcome document of the thirtieth special session of the General Assembly, held in 2016, entitled “Our joint commitment to effectively addressing and countering the world drug problem”,⁷ in particular the recommendation to take appropriate measures to address the diversion and illicit manufacturing of and trafficking in as well as misuse of precursors under international control and to tackle the misuse of pre-precursors and substitute or alternative precursors for illicit drug manufacturing, and enhance voluntary efforts, including voluntary codes of conduct in cooperation with relevant industries and commerce at the national, regional and

⁶ See *Official Records of the Economic and Social Council, 2019, Supplement No. 8 (E/2019/28)*, chap. I, sect. B.

⁷ General Assembly resolution S-30/1, annex.

international levels, including through the use of relevant International Narcotics Control Board tools,

Recalling also the Joint Ministerial Statement of the 2014 high-level review by the Commission on Narcotic Drugs of the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem,⁸ in which the Commission noted that diversion of precursor chemicals, including pharmaceutical preparations containing those chemicals, continued to be a major challenge in curbing the illicit production and manufacture of drugs, emphasized the need to further strengthen control of precursor chemicals by Member States and highlighted the need for Member States to work more closely with the International Narcotics Control Board by exchanging information on trafficking in precursor chemicals and other non-scheduled substances used in the illicit manufacture of drugs, including on new methods for their diversion, as mandated in article 12, paragraph 12, of the 1988 Convention, and to increase monitoring of trade in non-scheduled substances listed in the Board's limited international special surveillance list of non-scheduled substances,

Recalling further the 2009 Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem,⁹ in which Member States recognized inter alia that non-controlled precursor chemicals and/or substitute chemicals, as well as pharmaceutical preparations containing precursors, have been used in the illicit synthesis of drugs, and recommended that Member States should further strengthen mechanisms, as appropriate, for the timely identification, collection and exchange of information on non-scheduled substances, including derivatives specifically designed to circumvent existing controls, especially by making use of the updated international special surveillance list of non-scheduled substances, and focus greater attention on the use of non-scheduled substances and substitute chemicals for the manufacture of traditional precursors, used in the manufacture of heroin and cocaine,

Acknowledging the efforts of the International Narcotics Control Board, within its treaty-mandated functions, to bring to the attention of the Commission the challenges related to non-scheduled precursors, and noting in this regard the document entitled "Proliferation of non-scheduled chemicals and designer precursors: options for global action",

Taking note with appreciation of the Synthetic Drug Strategy of the United Nations Office on Drugs and Crime,

Recalling its resolution 60/5 of 17 March 2017 on increasing international coordination relating to precursors and non-scheduled precursor chemicals used in the illicit manufacture of narcotic drugs and psychotropic substances, in which it expressed concern that worldwide efforts to reduce the illicit supply of narcotic drugs and psychotropic substances and maintain effective control of scheduled substances were being undermined by drug traffickers, who were increasingly using non-scheduled precursor chemicals as substitutes for scheduled substances in the illicit manufacture of narcotic drugs and psychotropic substances, and invited Member States to take a range of forward-looking measures with respect to non-scheduled precursor chemicals,

Recalling also its resolution 62/1 of 22 March 2019, on strengthening international cooperation and comprehensive regulatory and institutional frameworks for the control of precursors used in the illicit manufacture of narcotic drugs and psychotropic substances, in which it urged Member States to further strengthen national legislation, administrative measures and institutional frameworks relating to

⁸ See *Official Records of the Economic and Social Council, 2014, Supplement No. 8 (E/2014/28)*, chap. I, sect. C.

⁹ See *Official Records of the Economic and Social Council, 2009, Supplement No. 8 (E/2009/28)*, chap. I, sect. C.

the control of precursors used in the illicit manufacture of narcotic drugs and psychotropic substances, pursuant to the 1988 Convention, and emphasized the need for Member States to strengthen monitoring and control systems, including at the domestic distribution level and at the points of entry and exit of precursor chemicals, and to adopt measures to promote the secure transport of such substances,

Recalling further its resolution 63/1 of 6 March 2020 on promoting efforts by Member States to address and counter the world drug problem, in particular supply reduction-related measures, through effective partnerships with private-sector entities, in which it noted with concern that drug traffickers continued to exploit tools of modern commerce, including financial transfer services and platforms, to traffic in precursors, pre-precursor chemicals and synthetic drugs, and welcomed efforts by the private sector to safeguard their supply chains, products and platforms from such exploitation,

Recognizing that the existing scheduling system established by the 1988 convention has been effective in preventing diversion of known precursors to illicit channels while noting that controlled precursors can be replaced by an almost infinite number of substitutes, including many with no legitimate uses and designed purely to circumvent controls, and acknowledging associated challenges with including an ever-growing number of chemicals in the tables of the 1988 Convention ;

Welcoming cooperation of Member States, with the United Nations Office on Drugs and Crime and, within its treaty-mandated role, the International Narcotics Control Board as well as other relevant international and regional organizations and entities, as appropriate, to implement proactive and innovative approaches to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors,

1. *Calls upon* Member States to intensify their efforts to address, as appropriate, the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors;

2. *Calls upon* Member states in accordance with article 3 of the 1988 Convention, to adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, 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;

3. *Also calls upon* Member states to take such measures as they deem appropriate, in accordance with article 13 of the 1988 Convention, to prevent the trade in, and the diversion of, materials and equipment for illicit production or manufacture of narcotic drugs and psychotropic substances and to cooperate to this end;

4. *Encourages* Member States to make use of the recommendations contained in the International Narcotics Control Board guidance document entitled “Proliferation of non-scheduled chemicals and designer precursors: options for global action” in the design and implementation of national drug control strategies and to share best practices, challenges and the results of those efforts, on a voluntary basis, in accordance with national legislation or regulations;

5. *Invites* the International Narcotics Control Board, when communicating to the Commission on Narcotic Drugs its assessment of a substance which it recommends be placed in Table I or Table II of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to simultaneously provide the Commission, in a manner and format that corresponds to the sensitivity of the matter, with relevant information, if any, about derivatives and related chemicals, which may readily be converted to or used in place of that substance during illicit manufacture, as well as recommendations of monitoring measures for these chemicals, if any, that would be appropriate in the light of its assessment, while bearing in mind possible impacts on legitimate manufacturing and research, as appropriate;

6. *Calls upon* Member States to implement, within their national legal and regulatory frameworks, the scheduling decisions of the Commission on Narcotic Drugs under the 1988 Convention related to international control of precursors, which become fully effective with respect to each party 180 days after being communicated by the Secretary General, as provided for in article 12, paragraph 6 of the Convention;

7. *Also encourages* Member States, when placing domestic controls on a substance pursuant to a decision by the Commission to add that substance to Table I or Table II, to consider also taking domestic measures, where appropriate, on related chemicals that may readily be converted or substituted for that substance in accordance with national legislation and taking into account any information provided by the International Narcotics Control Board on those chemicals, as well as possible impacts on legitimate manufacturing and research;

8. *Calls upon* Member States to enhance data collection on precursors, and to continue developing and using mechanisms to communicate this data with other Member States, in accordance with domestic law, to understand emerging trends, such as the use of substitute chemicals, and to identify the use of any substance not included in Table I or Table II of the 1988 Convention in illicit manufacture of narcotic drugs or psychotropic substances, and to share the results of such data collection in a timely manner, and with the International Narcotics Control Board in accordance with article 12, paragraph 12, of the 1988 Convention, and including through the annual report questionnaire;

9. *Invites* Governments to consider, on a voluntary basis, a variety of approaches, such as rapid scheduling procedures, the compiling of lists of non-scheduled precursor chemicals with no known legitimate uses but known to be used for illicit drug manufacture, the adoption of provisions which would allow Governments to take action on such non-scheduled precursor chemicals when there is sufficient evidence that they will be used for illicit drug manufacture, and other innovative legislative, regulatory or administrative approaches;

10. *Encourages* Member States to continue making use of the *Guidelines for a Voluntary Code of Practice for the Chemical Industry*,¹⁰ the limited international special surveillance list of non-controlled substances of the International Narcotics Control Board and any similar lists maintained by Member States, as appropriate, as well as the Board's model memorandum of understanding between Governments and private sector partners, in order to promote responsible commercial practices and sale of chemicals and to prevent the diversion of chemicals into illicit drug manufacturing channels;

11. *Also encourages* Member States to consider applying the "Guidelines to prevent and investigate the diversion of materials and equipment essential for illicit drug manufacture in the context of article 13 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988", developed by the International Narcotics Control Board;

12. *Further encourages* Member States to continue to make active use of the Pre-Export Notification Online system for pre-export notifications of precursor chemicals developed by the INCB and takes note of the efforts of INCB to make available a similar system for the sharing of information about planned exports of chemicals not under international control, on a voluntary basis, which Member States are encouraged to use in respect of export of such substances from their territories where appropriate;

13. *Calls Upon* Member States to take appropriate measures to strengthen international cooperation and the exchange of information regarding the identification of, *inter alia*, new routes and the *modi operandi* of organized criminal groups involved in the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors, including by registering with

¹⁰ United Nations publication, Sales No. 09.XI.17.

and using the Precursors Incident Communication System of the International Narcotics Control Board as a means of systematically sharing information on incidents involving precursor chemicals;

14. *Encourages* Member States to use existing subregional, regional and international cooperation mechanisms to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors, including by enhancing international cooperation to successfully counter and dismantle organized criminal groups, including those operating transnationally;

15. *Also encourages* Member States, with the assistance of the INCB, as appropriate, to provide adequate training to the relevant staff of competent authorities about the information tools developed by the International Narcotics Control Board through which competent authorities may learn about the extent and level of legal controls in participating States, as made available by the Board, and invites the competent authorities of Member States to provide such information as they deem appropriate to the relevant stakeholders in the chemical industry, with a view to increasing their level of awareness of the legal and regulatory requirements of other member states;

16. *Encourages* the United Nations Office on Drugs and Crime, in close cooperation with Member States and in consultation with the International Narcotics Control Board and other relevant UN entities, as appropriate, and within their existing mandates, to continue to develop the United Nations Toolkit on Synthetic Drugs in order to include information and resources on measures to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors, and to operationalize and disseminate the information about the interventions included in the Toolkit by incorporating it, as appropriate, into the technical assistance and capacity-building programmes of the Office;

17. *Requests* the United Nations Office on Drugs and Crime, within its existing mandate to provide capacity-building, recommendations and assistance to Member States upon request, including with regard to making use of the recommendations contained in the International Narcotics Control Board guidance document entitled “Proliferation of non-scheduled chemicals and designer precursors: options for global action,” in accordance with domestic law, in order to take appropriate measures to address the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors and invites the INCB within its treaty-based mandate to continue providing assistance to Member States in this regard;

18. *Requests* UNODC to assist member states, upon request, in addressing their challenges in addressing the diversion of non-scheduled chemicals frequently used in the illicit manufacture of drugs and the proliferation of designer precursors through providing technical assistance, equipment and technology, along with necessary training;

19. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.