

UNODC responses to questions directed to it by Member States

Recommendation	General questions
Question submitted by	United States

It would be very helpful for member states if the UNODC would produce an analysis of the recommendations on all rights and responsibilities in the three UN drug conventions. We note for example, that there is some tension between the '61 and '71 conventions on the treatment of traditional uses of cannabis. Under the '61 convention, such uses are to be discontinued 25 years after ratification, but the '71 convention provides no such limit. A number of countries permit traditional uses, but a shift of THC to the '61 convention would eliminate that use. It would be helpful to get UNODC to prepare a thorough impact assessment, including identification of the Legal issues that may arise if recommendations are adopted in whole or in part, and the potential impact on rights and responsibilities under the Conventions.

UNODC would not be able to reply in a most comprehensive manner to the proposal for an analysis of all rights and responsibilities of Parties under each treaty, or to purport to evaluate the impact at the national level of each of the recommendations, should they be adopted by the Commission. We observe that the impact of re-scheduling substances would likely differ from country to country, depending on the domestic implementation measures already in place, so each Party would be best positioned to conduct such an evaluation.

That said, the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances contain several similar or closely drafted provisions on different activities, sometimes with more or less subtle distinctions. We understand that reference to some examples of potential differences in handling substances, if moved from a schedule of one Convention to a schedule of another Convention, might be of assistance. For example:

- The 1961 Convention has a stricter system of periodic returns of estimates of requirements for narcotic drugs – Parties are required to annually provide that information to the INCB, under the 1961 Convention. So called voluntary “assessments of annual medical and scientific requirements” are asked by the INCB to Parties to the 1971 Convention at least once every three years, on the basis of resolutions of the ECOSOC

that invite Governments to communicate from time to time their assessments of medical and scientific requirements of psychotropic substances.

- Limitation of stocks is foreseen in more detail for all narcotic drugs under the 1961 Convention (article 30(2)(a) of the 1961 Convention), whereas the 1971 Convention contains only a broad reference to limitation of stocks (“by such measures as it considers appropriate”) in its article 5(2), applicable to Schedules II, III and IV.
- Equally, the 1961 Convention addresses limitation of manufacture and importation in its article 29(2)(c), with reference to periodical permits required from licensed manufacturers, which is not a measure foreseen in the 1971 Convention.

For a list of examples of control measures applicable to the different treaties, with reference to the provisions dealing with the similar measures, see Annexes 1 and 2. We also refer to the response by the INCB, which has identified further important distinctions between the control measures for each treaty.

With regard to the reference in the question relating to treatment of traditional uses, we are of the view that the example on how the 1961 and the 1971 Conventions may address traditional uses of cannabis, although illustrating a different perspective of each treaty to a similar issue, may be of limited relevance to the current discussion.

The 1961 Convention allowed for transitional reservations, for up to 25 years after entry into force of the treaty, including for cannabis and cannabis resin for non-medical purposes under art. 49(1)(d), in the context of being traditional and previously permitted. This transitional reservation was utilized by some countries, but the timeframe of such reservations has already expired.

The 1971 Convention offers the possibility, upon signature, ratification or accession, of reservations by States on whose territory there are plants growing wild which contain psychotropic substances (...) which are traditionally used by certain small, clearly determined groups in magical or religious rites (art. 32, paragraph 4, 1971 Convention). The possibility of reservations for traditional uses, allowed under the 1971 Convention, has not been specifically claimed by any country for THC. Therefore, a move of THC to the 1961 Convention would in principle not affect the enjoyment of such an option under the 1971 Convention.

Recommendation	5.1 Cannabis and cannabis resin
Question submitted by	United States

What is meant by “cannabis resin” in the treaty? Does it refer to purified resinous substance such as butane hash oils and hashish, or to some other formulation of cannabis?

Article 1(d) of the 1961 Convention contains the following definition:
“‘Cannabis resin’ means the separated resin, whether crude or purified, obtained from the cannabis plant.”

As clarified in the *Commentary*, the 1961 Convention “does not exclude any part of the cannabis plant as source of the resin” (United Nations, *Commentary on the Single Convention on Narcotic Drugs, 1961*, 1973, p. 5).

Recommendation	5.1 Cannabis and cannabis resin
Question submitted by	United States

Is it possible to separate the schedule entry for cannabis and cannabis resin and consider the recommendation as two separate recommendations, one for cannabis and one for cannabis resin?

The World Health Organization explicitly included in its notification to the Secretary-General a recommendation to the Commission that applies to both cannabis and cannabis resin. We would refer the scientific justifications to the WHO on the reasons why WHO considered it appropriate to assess together these substances, which have separate definitions, but are subject to the same rules.

As a matter of practice, the Secretariat presents to the Commission the scheduling recommendations as they have been made by the WHO. The practice followed by the Commission has been to vote on the recommendations as they are presented.

Recommendation	5.1 Cannabis and cannabis resin
Question submitted by	United States

Does the recommendation to add certain pharmaceutical preparations of cannabis to Schedule III depend on the recommendation on cannabis and cannabis resin being enacted? In other words, is it possible to retain botanical cannabis in schedules IV and I while adding therapeutic preparations of cannabis to Schedule III?

While the World Health Organization could be in a better position to advise, we understand that the recommendation on cannabis and cannabis resin and the recommendation on “pharmaceutical” preparations of cannabis appear to not have been made subject one to another by the WHO, i.e. there is no conditionality among them. In principle, both recommendations would be voted on separately.

The provisions of the 1961 Convention do not impede Parties from permitting activities relating to a substance contained in schedules I and IV (in this case, cannabis, as defined in the 1961 Convention) for medical and scientific purposes, subject to the control measures defined in the treaty. The 1961 Convention also does not contain provisions that would impede the inclusion in Schedule III of certain preparations of drugs that are in Schedules I and IV.

We observe that the term “botanical cannabis” is not included in the 1961 Convention. There are treaty provisions applicable to the cultivation of the cannabis plant, but the term cannabis is defined in article 1 of the 1961 Convention.

Recommendation	5.2 Dronabinol
Question submitted by	Singapore

Can the Secretariat go through the voting process regarding recommendations 5.2 and 5.3? For example, if 5.2 is rejected by the Commission by means of voting, will that obviate the need to vote in relation to 5.3, or can there be a situation whereby 5.2 is agreed to but not the 5.3?

In principle, the Commission votes on each recommendation by the WHO separately. Recommendations are in general independent from each other. When the WHO recommendation explicitly contains conditionality, then such recommendation would depend on the outcome of the vote on another recommendation. For example, recommendation 5.2.2 (to delete dronabinol from the 1971 Convention), and 5.3.1 (to add tetrahydrocannabinol to schedule I of the 1961 Convention) are phrased as being subject to the adoption of 5.2.1 (to add dronabinol to Schedule I of the 1961 Convention). Recommendation 5.3.2 (to delete tetrahydrocannabinol from Schedule I of the 1971 Convention) is phrased as being subject to the adoption of 5.3.1 (to add tetrahydrocannabinol to Schedule I of the 1961 Convention).

Replying to the question, if recommendation 5.2.1. would not be adopted by the Commission, then recommendation 5.3.1. would not be put to a vote (in relation to moving tetrahydrocannabinol).

If recommendation 5.2.1. would be adopted by the Commission, then recommendation 5.3.1. would be voted, and could be adopted or not adopted.

The Commission's attention is drawn to the different majority requirements of the 1961 and the 1971 Conventions, which could possibly affect the outcomes of voting on the individual recommendations.

Recommendation	5.2 Dronabinol
Question submitted by	European Union

If dronabinol were moved to the 1961 Convention, could the leaves be internationally controlled under the 1961 Convention, even though cannabis leaves are, according to the same convention, exempt from control?

“Leaves” are explicitly excluded from the definition of the term “cannabis” in the 1961 Convention, when not accompanied by the tops. They remain under control pursuant to article 28, paragraph 3, of the 1961 Convention, which requires States parties to “adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant”.

If dronabinol were moved to the 1961 Convention, the leaves of the cannabis plant containing THC and its isomers, including dronabinol, especially in levels that would facilitate their extraction and possible abuse, would continue to be controlled, following the same reasoning that currently allows for their control under the 1971 Convention. The validity and reach of article 28, paragraph 3, of the 1961 Convention would remain unchanged, and it would continue to be applied together with control measures applicable to dronabinol (and THC). If moved to a schedule of the 1961 Convention, THC would constitute a scheduled substance on its own, separate from cannabis or cannabis resin, and both synthetic and naturally extracted THC would continue to be covered.

Recommendation	5.2 Dronabinol
Question submitted by	United States

What were the topics of discussion that led to delta-9-THC being placed in the 1971 Convention at the time that it was drafted? Since the drafters of the 1971 Convention knew that delta-9-THC was the main psychoactive component of cannabis, why did they not choose at that time to place it in the same Convention and Schedule as cannabis?

We looked into the *Official Records* of the “United Nations Conference for the adoption of a Protocol on Psychotropic Substances” and found no particular explanation for the decision to include THC in the 1971 Convention instead of the 1961 Convention.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	European Union

Could the UNODC Division for Treaty Affairs give their view on the implications of recommendation 5.5. in relation to Article 28 of the 1961 Convention?

Art. 28, paragraph 1, of the 1961 Convention addresses the cultivation of the cannabis plant “for the production of cannabis or cannabis resin”. Thus, the interpretation of the provision also depends on the definitions of cannabis and cannabis resin, which are provided in article 1 of the Convention.

If, following the WHO recommendation 5.5., a footnote was added to Schedule I clarifying that preparations of cannabis or cannabis resin containing predominantly CBD and not more than 0.2% of delta-9-tetrahydrocannabinol would be excluded from international control, this would, in consequence, affect the scope of article 2, paragraph 3, when applicable to preparations of cannabis.

The scope of article 28, paragraph 1, of the 1961 Convention would in principle not be modified in relation to the way States parties currently implement that provision. Article 28 would continue to apply to the cultivation of the cannabis plant for the production of cannabis and cannabis resin, as understood today, to the extent that only “preparations” fulfilling the conditions described in the footnote would be excluded from international control.

Some countries hold the interpretation, based on the object and purpose of the treaty provisions, that preparations derived from cannabis that are not psychoactive (i.e. rich in CBD and very poor in THC content), would already now fall outside the scope of control of the Convention. This can also be seen as an analogy to or a consequence of the exclusion of control over cannabis for industrial purposes, where countries in practice limit the THC threshold admissible for cannabis grown for such purposes.

Equally, other countries follow a more literal interpretation and apply control measures to preparations of CBD, no matter how poor they would be in THC content, recognizing that they fall under the definition of preparations of cannabis or cannabis resin under the 1961 Convention. These countries may likely continue adopting the same interpretation irrespective of whether THC would be controlled under the 1961 Convention or continue to be controlled under the 1971 Convention. Recommendation 5.5. would seek to clarify that CBD preparations falling under the scope of the proposed footnote, would be excluded from international control.

The provision of article 28, paragraph 3, of the 1961 Convention, that requires Parties to adopt measures to prevent the misuse of, and illicit traffic in the leaves of the cannabis plant, would continue to apply.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	European Union

Considering the high number of low-THC products on the market worldwide (declared as, e.g., food, food supplements, cosmetics), it should be made clear which low-THC products, irrespective of their CBD content, are regulated by the 1961 Convention (or the 1971 Convention) and may be illicit, and which ones are exempt. With this in mind, the control of cultivation should also be clarified. Could the UNODC Division for Treaty Affairs give their positions on this issue?

UNODC is not in the position to define which “low-THC products” would be regulated under the 1961 or the 1971 Conventions. None of those treaties, as they stand, define concentration levels of preparations of cannabis or cannabis resin or of THC, or of any related products (please note that “preparation” is defined as “a mixture, solid or liquid, containing a drug”). Also in the 1971 Convention, there is no reference to a threshold below which THC would not be subject to control measures.

The WHO, within its functions under article 3 of the 1961 Convention and article 2 and 3 of the 1971 Convention, made some recommendations that appear to indicate that the definition of parameters may be positive from a public health perspective. We understand that WHO is the appropriate body to address the question of the health impact of different concentration levels of cannabinoids in different preparations.

From a legal perspective, as explained in our reply to the preceding question, different interpretations have been held by different States parties.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	United States

Is an active pharmaceutical ingredient which may contain trace impurities of a controlled substance considered a preparation of that controlled substance under the Conventions?

According to art. 1 (s) of the 1961 Convention, a preparation is “a mixture, solid or liquid, containing a drug”.

According to art. 1 (f) of the 1971 Convention, a preparation is “(i) any solution or mixture, in whatever physical state, containing one or more psychotropic substances or (ii) one or more psychotropic substances in dosage form”.

These definitions may suggest that impurities of a controlled substance could be sufficient to determine the application of the provisions of the Convention for preparations of that controlled substance. The Convention does not contain provisions that would allow for differentiating between ‘impurities’ and ‘ingredients’, or for the determination of specific concentration requirements.

According to an interpretation of the Convention that is based on its object and purpose, the answer to this question would be dependent on the concentration of the “trace impurities”. According to this interpretation, if there would be no possibility of misuse or recovery of the drug component, this could not be considered as a preparation of that drug.

A Party following a more literal interpretation could theoretically consider a preparation containing any level of trace impurities of a drug as a preparation of that drug.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	United States

When a recommendation relates to a substance not under international control, and the recommendation is that the substance should not be under international control, is it necessary to hold a vote on the recommendation?

In our view, the question does not provide for enough elements for a specific answer. Generally speaking, it is not “necessary” for the Commission to hold any vote. It is up to the Commission to decide on whether to do so. Furthermore, the World Health Organization would not be expected to make a recommendation for the Commission not to schedule a substance that is not yet under international control, in a scheduling proceeding initiated by the WHO itself.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	United States

Why is a footnote necessary to exempt preparations of cannabidiol from control when preparations of noscapine and papaverine, which may contain trace amounts of controlled opiates, do not need to be specifically exempted by footnote?

The same question was made to the WHO, which is responsible for the recommendation, and we refer to its answer.

Recommendation	5.5 Cannabidiol Preparations
Question submitted by	United States

In lieu of a footnote, what other methods are available to clarify that preparations predominantly containing cannabidiol are not under international control?

In lieu of a footnote, what other methods are available to clarify that cannabis or preparations of cannabis that contain only trace amounts of delta-9-THC are not under international control?

How can the Commission clarify that a preparation that predominantly contains a non-controlled substance, but may also contain trace amounts of a controlled substance, when compounded in such a way that it presents no, or negligible risk of abuse and the controlled substance therein cannot be recovered by readily applicable means in a quantity liable to abuse, so that the preparation does not give rise to a public health and social problem, is not subject to international control?

We should note that the understanding expressed by the World Health Organization in the context of some of its recommendations, and that of various States parties, is that cannabidiol is a controlled substance, as a preparation of cannabis.

There are different ways to clarify the issue, which would be for the States members of the Commission to determine. One option could be for the CND to make an interpretative decision, under its policy-making authority. Such decision would serve as guidance, but not be binding on the Parties.

Footnotes have been used in schedules in the past. For example, a footnote was used to specifically exclude substances from schedules (example: dextromethorphan and dextrorphan, under the substance levomethorphan, in schedule I of the 1961 Convention); to include isomers, esters and ethers and salts, or stereoisomers in the 1971 Convention; or to exclude salts of hydrochloric acid and sulphuric acid from Table II of the 1988 Convention.

Referred to UNODC by INCB:

Recommendation	5.2 Dronabinol
Question submitted by	United States

This may be more of a philosophical question, but if the drafters of the 1971 Convention intended to put Delta 9 THC in the '71 Convention knowing that it was the active component of cannabis, and if the drafters of the '61 Convention did not include cannabis in the estimate system, if we amend the schedules with respect to THC are we not in effect amending the conventions but not using the amendment processes contained in those treaties?

Cannabis is a narcotic drug scheduled under the 1961 Convention, and therefore it is included in the system of estimates and statistical returns established under that treaty. Both the 1961 and the 1971 Conventions provide for the possibility of changes in their scope of control to be conducted through amendment to their schedules. These Conventions empower the Commission on Narcotic Drugs to make decisions in this regard. Therefore, we understand that amendments to the schedules are matters under the authority of the Commission, pursuant to articles 3 and 2 of the 1961 and 1971 Conventions, respectively.

Annex 1 – TABLE OF CONTROL MEASURES – LICIT ACTIVITIES

The table below provides an overview of specific control measures as provided for in the international drug control conventions. It is illustrative, and it indicates applicable provisions in the Conventions, to facilitate reference, search and comparison.

The table also indicates the level of obligation attached to a particular control measure, i.e., whether they are of a “mandatory” or “optional” nature. In this context, “optional” would mean that Parties may exercise discretion as to whether or not to apply the particular measure of control to the specified drugs. This is indicated in the first column of the table below. In a number of cases, the Conventions require that a particular control measure be implemented as mandatory with regard to a particular schedule while leaving the application of the same measure to other schedules at the discretion of the Party. In such cases, the column indicates a “mandatory/optional” nature.

Level of obligation	Control measures	Article(s) in the 1961 Convention as amended	Article(s) in the 1971 Convention	Article(s) in the 1988 Convention
General				
Mandatory	Obligation to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs	Art. 4(c)	Art. 5(2) and 7(1)	
Mandatory	Establish and maintain a special administration for the purpose of applying the provisions of the Convention	Art. 17	Art. 6	
Mandatory	Periodic returns of estimates of drug requirements; annual statistical reports/returns	Arts. 19 and 20	Art. 16 (4)	Art. 12 (12)
Cultivation				
Mandatory Optional for specific provisions	Limitation of cultivation	Arts. 22, 23, 25 (1), 26 , 27 and 28.		
Manufacture				
Mandatory	Licensing of enterprises	Art. 29(1)	Arts. 7(b) and 8(1)	Art. 12(8)(a), (b)(i)
Mandatory	Licensing of premises	Art. 29(2) (b)	Art. 8(2)(b)	Art, 12 (8)(b)(ii)
Mandatory Optional for narcotic drugs preparations	Periodical permits for manufacture	Art. 29(2)(c)		

Level of obligation	Control measures	Article(s) in the 1961 Convention as amended	Article(s) in the 1971 Convention	Article(s) in the 1988 Convention
Mandatory	Prevent the accumulation of quantities of drugs and poppy straw in excess of those required	Art. 29(3)		
Mandatory	Recording of operations	Art. 34(b)	Art 11	
Wholesale¹				
Mandatory Optional (“may”) for precursors	Trade in and distribution of drugs be under licence except where such is carried out by a State enterprise	Art. 30(1)(a)	Arts.7(a-d) and 8 (1) and (2)(a)	Art. 12(8)(b)(i)
Mandatory Optional (“may”) for precursors	Licensing of premises	Art. 30(1)(b),	Art. 8(2)(b)	Art, 12 (8) (b)(ii)
Mandatory for narcotic drugs Optional (“may”) for precursors	Limitation on stocks/ quantities	Art. 30(2)(a)		Art. 12(8)(b)(iv)
Mandatory	Recording of operations	Art. 34 (b)	Art. 11	
Optional (at the discretion of the Party)	Special labelling/ packaging (red band)	Art. 30(4)		

¹ The term wholesale is used in Article 23 of the 1961 Convention and in Articles 11 and 15 of the 1971 Convention (in relation to wholesale distribution). In the 1988 Convention, the term wholesale is used in Article 12, on monitoring international trade.

Level of obligation	Control measures	Article(s) in the 1961 Convention as amended	Article(s) in the 1971 Convention	Article(s) in the 1988 Convention
Retail distribution				
Mandatory	Licensing of distribution	Art. 30(1)	Art. 8 (1), 8(2)(a)	
Mandatory/optio n	Licensing of premises	Art. 30.1(b)	Art. 8(2b)	
Mandatory	Limitation of stocks /quantities	Art. 30(2)(a)	Art. 5(2)	
Mandatory/optio n	Medical prescription for supply or dispensation	Art. 30(2)(b)	Art. 9(1)	
Optional	Prescription written on official forms issued in the form of counterfoil books	Art. 30(2)(b)(ii)		
Optional /mandatory	Labelling indications	Art.30(3), (4) and (5)	Art. 10(1)	
Optional (“it is desirable”)/ Mandatory (“shall” with due regard to constitutional provisions”)	Advertising	Art.30(3-5)	Art. 10(2)	
International Trade (see section below for provisions on precursors)				
Mandatory	Import and export licensing	Art. 31 (3)	Art. 8(1)	
Mandatory	Import and export authorization and certificate	Art. 31(4-7) and (10)	Art. 12(1), (2) and (3)(d)	
Mandatory	Prohibition on consignments addressed to post office box or to bank account of someone other than person named in authorization	Art. 31(8)	Art. 12(3)(b)	
Mandatory	Limits on exports of consignments to a bonded warehouse	Art. 31(9)	Art. 12(3)(c)	
Mandatory	Transit: export authorization produced to country or region of transit	Art 31(11)	Art. 12(3)(e-h)	
Special provisions				
Mandatory	Carriage of drugs in first-aid kits of ships or aircraft engaged in	Art. 32	Art. 14	Arts. 15, 17

Level of obligation	Control measures	Article(s) in the 1961 Convention as amended	Article(s) in the 1971 Convention	Article(s) in the 1988 Convention
	international traffic/international travellers			
Mandatory Optional (“may”) for precursors	Measures of supervision and inspection	Arts. 29(a), 34	Arts. 8(2)(a), 15	Art. 12(8)(b)(i)
Optional	Destruction of damaged and expired drugs	-	-	
Precursors				
Mandatory	System to monitor the international trade in precursors			Art. 12(9)(a)
Mandatory	Provide for the seizure of any substances suspected to be for use in the illicit manufacture of narcotic drugs or psychotropic substances			Art. 12(9)(b)
Mandatory	Requirement for proper labelling of imports and exports and maintenance of documents			Art. 12(9)(d) and (e)
Mandatory	Requirement for pre-export notification and information to be supplied to importing country			Art. 12(10)
Mandatory (if required by the Party furnishing information)	Information on trade, business, commercial or professional secret or trade process kept confidential			Art. 12(11)
Other provisions				
Mandatory	Extradition	Art. 36(2)(b)	Art. 22(b)	Art. 6
Mandatory	Widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences; other forms of law enforcement cooperation			Arts. 7 and 9
Mandatory	Cooperate to the fullest extent possible to suppress illicit traffic by sea			Art. 17

Level of obligation	Control measures	Article(s) in the 1961 Convention as amended	Article(s) in the 1971 Convention	Article(s) in the 1988 Convention
Mandatory	Take all practicable measures for the prevention of abuse of narcotic drugs and psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, and shall coordinate their efforts to these ends	Art. 38	Art. 20	

Annex 2 – TABLE OF CONTROL MEASURES – PENAL PROVISIONS

The table below, which has illustrative purposes, lists conduct that Parties are required to establish as criminal offences.

Level of obligation	Control measures	Article(s) in the Conventions
Offences		
1. Mandatory SCLLSDL*	A series of related actions constituting offences, if committed in different countries, shall each be considered as distinct offences	Art. 36(1)(a) and (2)(a)(i), 1961 Convention and art. 22(1)(a) and (2)(a)(i), 1971 Convention
2. Mandatory	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	Art. 3(1)(a)(i), 1988 Convention
3. Mandatory	Possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (2) above	Art. 3(1)(a)(iii), 1988 Convention
4. Mandatory	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	Art. 3(1)(a)(ii), 1988 Convention
5. Mandatory	Manufacture, transport or distribution of equipment, materials or precursors knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances	Art. 3(1)(a)(iv), 1988 Convention
6. Mandatory	Organization, management or financing of any of the offences listed in (2, 3, 4 or 5) above	Art. 3(1)(a)(v), 1988 Convention
7. Mandatory	Conversion or transfer of property, knowing that it is derived from any offence or offences established in (2, 3, 4, 5 or 6), or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade legal consequences	Art. 3(1)(b)(i), 1988 Convention

Level of obligation	Control measures	Article(s) in the Conventions
8. Mandatory	Concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence established in accordance with (2, 3, 4, 5 or 6) above or from an act of participation in such an offence	Art. 3(1)(b)(ii), 1988 Convention
9. Mandatory SBCLS**	Acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from an offence derived from (2, 3, 4, 5 or 6) above	Art. 3(1)(c)(i), 1988 Convention
10. Mandatory SBCLS**	Possession of equipment or material or substances listed in Table I and Table II, knowing that they are being or are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances	Art. 3(1)(c)(ii), 1988 Convention
11. Mandatory	Publicly inciting or inducing others, by any means, to commit any of the offences established in accordance with (2-12) or to use narcotic drugs or psychotropic substances illicitly	Art. 3(1)(c)(iii), 1988 Convention
12. Mandatory SBCLS**	Possession, purchase, or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended, or the 1971 Convention.	Art. 3(2), 1988 Convention
13. Mandatory SCLLSDL*	Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences as provided, shall be punishable offences	Art. 36(2)(a)(ii), 1961 Convention and art. 22(2)(a)(ii), 1971 Convention
14. Mandatory SBCLS**	Participation in, association or conspiracy to commit, attempts to commit, aiding, abetting, facilitating and counselling for the commission of any of the offences established in accordance with (2 through 12) above	Art. 3(1)(c)(iv), 1988 Convention
Jurisdiction		
15. Mandatory	Offences committed within its territory and on-board its vessels and aircrafts	Art. 36(2)(a)(iv), 1961 Convention, art. 22(2)(a)(iv) 1971 Convention, art. 4(1)(a) 1988 Convention

Level of obligation	Control measures	Article(s) in the Conventions
16. Optional	May take such measures as may be necessary to establish jurisdiction over the offences it has established when committed by one of its nationals or a by a person who has his habitual residence in its territory; the offence is committed on board a vessel concerning which that Party has been authorized to take appropriate action pursuant to the Article on illicit traffic by sea...and the offence in accordance with (14) above is committed outside its territory with a view to the commission, within its territory, of an offence established in accordance with (2-11, 13-14) above	Art. 4(1)(b), 1988 Convention
17. Optional	May establish jurisdiction over offences when the alleged offender is present in its territory and does not extradite him to another Party	Art. 4(2)(a-b), 1988 Convention
Sanctions and other measures		
18. Mandatory (subject to the constitutional limitations of the Party)	Serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty	Art. 36(1)(a), 1961 Convention, art. 22(1)(a), 1971 Convention
19. Mandatory	Make the commission of the offences...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	Art. 3(4)(a), 1988 Convention
20. Optional	For offences in accordance with (1) above: drug abusers shall undergo measures of treatment, education, after-care, /rehabilitation and social reintegration either as an alternative or in addition to conviction or punishment	Art. 36(1)(b), 1961 Convention and art. 22(1)(b), 1971 Convention
21. Optional	For offences in accordance with (2-11) above: the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration in addition to conviction or punishment	Art. 3(4)(b), 1988 Convention
22. Optional	In appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social	Art. 3(4)(c), 1988 Convention

Level of obligation	Control measures	Article(s) in the Conventions
	reintegration, as well as, when the offender is a drug abuser, treatment and aftercare	
23. Optional	For offences in accordance with (2-11) above: the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration in addition to conviction or punishment	Art. 3(4)(d), 1988 Convention
Aggravating circumstances		
24. Mandatory <i>SCLLSDL*</i>	Foreign convictions shall be taken into account for the purpose of establishing recidivism	Art. 36(2)(a)(iii), 1961 Convention and art. 22(2)(a)(iii), 1971 Convention
25. Mandatory	Ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences particularly serious, such as: Prior conviction, particularly for similar offences, whether foreign or domestic, to the extent permitted under the domestic law of a Party	Art. 3(5)(h), 1988 Convention
26. Mandatory	Ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences particularly serious, such as: - involvement in the offence of an organized criminal group to which the offender belongs; - involvement of the offender in other international organized criminal activities; - involvement in other illegal activities facilitated by commission of the offence; - use of violence or arms by the offender; - the fact that the offender holds a public office and that the offence is connected with the office in question; - victimization or use of minors; - the offence is committed in a penal or in an educational institution or social service facility or in their immediate vicinity or in other places to which school children and students resort for educational, sports and social activities	Art. 3(5), 1988 Convention

Level of obligation	Control measures	Article(s) in the Conventions
Confiscation/seizures		
27. Mandatory	Any drugs, substances ² and equipment used in or intended for the commission of any of the above-mentioned offences, shall be liable to seizure and confiscation	Art. 37, 1961 Convention, art. 22(3), 1971 Convention, and art. 5(2) of the 1988 Convention
28. Mandatory	Adopt such measures as may be necessary to enable confiscation of: <i>[not an exhaustive list of items in Art. 5]</i> - proceeds derived from offences or property of corresponding value; - drugs, materials and equipment used in or intended for use in offences; And shall - empower its authorities to order financial records be available or seized; - confiscation of intermingled property; <i>and may consider</i> - reversion of the onus of proof regarding the lawful origin of alleged proceeds or other property liable to confiscation	Art. 5(1), 1988 Convention
29. Mandatory	Seizure of any precursors if there is sufficient evidence that it is for use in the illicit manufacture of a drug	Art. 12(9)(b), 1988 Convention
30. Optional	Necessary measures for early destruction or lawful disposal of drugs and precursors which have been seized or confiscated and for the admissibility as evidence of duly certified necessary quantities of such substances	Art. 14(5), 1988 Convention
Criminal procedure		
31. Mandatory / optional	Endeavour to ensure that any discretionary legal powers under their domestic law relating to the prosecution of persons ... are exercised to maximize the effectiveness of law enforcement measures ... and ... to deter the commission of such offences	Art. 3(6), 1988 Convention
32. Mandatory	Ensure that authorities bear in mind the serious nature of the offences and the circumstances when considering early release or parole for (2-11, 13 and 14) above	Art. 3(7), 1988 Convention
33. Mandatory	Ensure presence at the criminal proceedings of a person charged with or convicted of an offence ..., who is found within its territory	Art. 3(9), 1988 Convention

² Article 22(3) of the 1971 Convention refers to “any psychotropic substance or other substance”.

Level of obligation	Control measures	Article(s) in the Conventions
(consistent with the legal system of the Party)		
34. Mandatory	Long statute of limitations period for offences in (2-11, 13 and 14), and a longer period where the alleged offender has evaded the administration of justice	Art. 3(8), 1988 Convention
35. Mandatory	Knowledge, intent or purpose required as an element of an offence may be inferred from objective factual circumstances	Art. 3(3), 1988 Convention
36. Mandatory	Tracing and seizing of proceeds	Art. 5(2), 1988 Convention
37. Mandatory	Availability of bank and financial records	Art. 5(3), 1988 Convention
38. Mandatory (if permitted by the basic principles of the legal system of the Party)	Appropriate use of controlled delivery at the international level ... to identify persons involved in offences ... and take legal action against them	Art. 11, 1988 Convention
39. Mandatory	Measures to suppress the use of the mails for illicit traffic / investigative and control techniques designed to detect illicit consignment of drugs and precursors in mails	Art. 19, 1988 Convention
* SCLSDL : Subject to the constitutional limitations of the Party, its legal system and domestic law		
** SBCLS : Subject to the constitutional principles of the Party and the basic concepts of its legal system		