

# THE PATH FORWARD

for effective public-private  
partnerships in drug control



## Diversion of precursors and non-scheduled chemicals

The first line of defence preventing the illicit use of chemicals is the industry. Public-private partnerships (PPPs) are highly useful in preventing the adverse or illicit use of chemicals, including of dual-use chemicals, a complex threat to chemicals production facilities, supply chains, and worldwide distribution.

The intention of PPPs dealing with monitoring of precursors and other non-scheduled chemicals is not to impose additional barriers to legitimate industrial or other uses of precursor chemicals, but to monitor their flow and prevent their diversion for illegal use.

### INCB'S ROLE AND ACTIVITIES

The International Narcotics Control Board (INCB) is the independent and quasi-judicial monitoring body for the implementation of the United Nations international drug control conventions.

INCB activities focus on:



**Intelligence-gathering and exchange:** expanding and supporting users of INCB's global communication platforms for the rapid voluntary exchange of information and intelligence on suspicious shipments, interdictions, or manufacture of precursors – under international control and not controlled internationally – and of non-scheduled dangerous substances;



**Special operations:** increasing situational awareness and operational intelligence shared through INCB's global intelligence-gathering and interdiction operations, involving non-controlled new psychoactive substances, non-medical synthetic opioids, related dangerous substances and precursors, and equipment;

**Global alerts:** sharing information about attempts by traffickers to obtain a particular substance in one country, thus alerting authorities worldwide and preventing traffickers from obtaining the substance elsewhere; and



**Rapid training and tools:** improving quality and increasing quantity of real-time intelligence communicated by focal points, by improving capacity to better identify and communicate interdiction incidents through INCB communication systems.



For several years INCB, through its PPP initiatives, has supported governments in developing and implementing voluntary partnerships as an effective and sustainable strategy to prevent the diversion of chemicals. As early as 2009, INCB provided governments with guidance materials for establishing or improving voluntary cooperative mechanisms with the industries concerned. INCB has also led cooperation efforts to reduce trafficking in dangerous substances not yet under international control, such as non-medical synthetic opioids (particularly fentanyl analogues), new psychoactive substances of concern, and illicit drug manufacturing equipment.

PPPs between Member State governments and relevant industries, facilitated by INCB, are a core component of INCB's work in this area. These involve chemical and pharmaceutical industries, internet providers, e-commerce companies, courier service providers, providers of financial services, as well as social

media platforms, and aim at bridging the gap between public and private sector approaches through an enhanced focus on voluntary cross-sector cooperation.

INCB also promotes voluntary industry cooperation tools and a 'twinning' model – linking counterparts from the public sector and industry, from within countries that already have well-established cooperation arrangements between public sector and industry, to assist governments interested in carrying out the process of establishing and implementing such cooperation.

The motive behind voluntary cooperation initiatives is to equip those who play a practical role in interdiction efforts with the necessary knowledge and cooperation frameworks to succeed in reducing trafficking in precursors and dangerous substances.

Click [here](#) for INCB resources on PPPs and [here](#) for INCB guidelines

#### **CASE STUDY: THE PROMISING IMPLEMENTATION OF A MEMORANDUM OF UNDERSTANDING FOR THE PREVENTION OF PRECURSOR CHEMICAL DIVERSION, UNITED REPUBLIC OF TANZANIA**

In August 2021, the authorities of the United Republic of Tanzania (hereafter, 'Tanzania') signed a Memorandum of Understanding (MoU) with two pharmaceutical associations and a number of chemical companies aimed at ensuring the effective and sustainable prevention of the diversion of precursor chemicals and non-scheduled chemicals, including designer precursors. The formalization of the cooperation was a culmination of long-term assistance provided to the country by the Governments of France and Switzerland, in the form of twinning, and ongoing capacity-building support by the International Narcotics Control Board.

Following the signing of the MoU, consistent, cohesive and open coordination exists between the Drug Control Enforcement Authority (DCEA) – coordinator of the implementation of the PPP in the country – Tanzania's other regulatory authorities and law enforcement agencies, and the private sector. To enhance the cooperation, to raise awareness among all relevant stakeholders and to facilitate the information flow for notifying suspicious orders and transactions regarding precursor chemicals and non-scheduled chemicals, the DCEA has established hotlines and online portals. The voluntary aspect of the cooperation, formalized by the MoU, complements the mandatory measures contained in the national legislation of the country.



# Effective PPPs in practice

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## **BUILDING RELATIONSHIPS BASED ON MUTUAL TRUST IS A KEY ELEMENT OF PPP OR INDUSTRY COOPERATION**

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Various means are used to plan and convene a national cooperation arrangement, ranging from industry conferences to formalized working groups. Additionally, there is a whole continuum of practices that have been used to formalize a relationship, from official memoranda of understanding to voluntary codes of conduct. While the nature of the cooperation arrangements might vary widely, they aim at maximizing mutual benefit, and their success depends on trust, goodwill, mutual respect and support of the parties involved. Important aspects of PPP relationship building included meeting regularly, at least annually, personalizing relationships using email or telephone correspondence, and ensuring that all parties to the relationship have a focal point dedicated to the PPP.

Concrete examples of successful cooperation include a precursor working group whose partners come from the chemical industry, and law enforcement, health and justice representatives from national and international states and jurisdictions. This working group reports to a ministerial council on precursor-related issues, and provides industry with the confidence it can participate in regulatory process where its views are acknowledged. In the European Union (EU), whose precursors legislation is applicable in all member states, cooperation is legally obliged and communication channels are two-way. Cooperation focuses on the day-to-day application of existing rules, with industry having already contributed to the development of some rules. Whenever the European Commission decides how to develop drug precursor rules, or whether to add new substances or precursors to scheduling lists, it consults with industry and any other stakeholders.

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## **HAVE ONE FOCAL POINT IN GOVERNMENT AND INDUSTRY TO FACILITATE COLLABORATION AND RAPID DIALOGUE WHEN NEEDED**

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Single focal points are critical in ensuring successful implementation of PPPs. Regular contacts and communication between authorities, operators and associations help to establish a relationship in which trade-related information can be shared in a climate of absolute trust. For some governments, personal contacts with individual representatives are the building blocks of industry's voluntary cooperation with them. If personnel change, continued formal cooperation depends on the good will of the replacement contact points, but this drawback nonetheless fails to outweigh the benefits of informal cooperation.

There are good examples of the positive impact of a fixed contact point on collaborating efficiently to prevent the diversion of precursor chemicals. Some countries regularly contact and communicate with authorities and industry associations, with trade secrets shared in a climate of absolute trust and direct links maintained with other countries and jurisdictions via a network of liaison officers. These links, coupled with the presence of partner agencies, enable swift communication to combat international threats.

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## **STRIVE FOR OPEN DIALOGUE – BASED ON CONTINUOUS KNOWLEDGE EXCHANGE AND GOOD RELATIONSHIP PRINCIPLES**

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Part of an open dialogue is ensuring that all PPP stakeholders, ranging from CEOs to frontline staff on both the public and private sides, are aware of the common goals and principles as well as the potential benefits of such a relationship. This awareness raising ensures that all stakeholders are aware of where the points of risk are. At the outset, it should be encouraged for both partners to talk through practical cooperation mechanisms for facilitating or activating a rapid response to risks and threats, and perhaps highlight successful elements that have worked somewhere so can be replicated elsewhere. In general, the relationship entails a two-

way communication based on an open and continuous exchange of information between the public and private sector partners. It is through such open dialogue that authorities can benefit from resources, knowledge, and expertise that the industry partners possess. Another important element in effective PPPs is training organized for industry at various levels, including those that may be organized by authorities or by chemical industry associations, for their members. Companies also directly ask authorities for training sessions or onsite visits.

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## EASE COMMUNICATION TO AVOID MAKING REPORTING OF SUSPICIOUS TRANSACTIONS CUMBERSOME

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The identification of suspicious orders is an important element in any PPP. Sharing that information with authorities will enable them to alert other companies in the same country, whom traffickers may approach with similar order requests. In a number of countries there already exists a voluntary mechanism of identifying and notifying suspicious orders. This is extended to non-scheduled substances including those on the international special surveillance list. Such a voluntary mechanism shows that it is possible to balance a favourable environment for chemical trade with effective precursor control.

Upon receiving information on suspicious transactions, authorities provide timely feedback to the industry, respecting confidentiality issues. The authorities also assist industry by providing information on how to recognize suspicious orders and transactions, through

direct contact with companies through online and in-person channels. The reporting and follow-up investigation of suspicious transactions has led to the dismantling of clandestine laboratories in some countries in the past. The tangible impact of a vivid, frank, and long-term dialogue between authorities and industry partners is visible in making cases like these as manageable as possible.

Another practice aimed at maintaining channels of communication involves authorities contacting the responsible persons from companies licensed in chemical trade and manufacture at least once per year to exchange specific questions around legal issues or business models and reiterate the need to communicate suspicious orders and transactions as soon as possible. Authorities have also established hotlines to facilitate regular and efficient communication.

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## MANAGING CONFIDENTIALITY ISSUES

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Confidentiality is one of the assurances that industry partners expect from authorities when entering into a PPP. In this context, industry partners trust that any confidential information they may provide to government authorities will be handled in strict confidence and not be made available to any other parties without consent. The aspect of confidentiality is often included in voluntary cooperation agreements, yet can be managed differently in various jurisdictions.

Some national authorities have specific confidentiality protocols. For example, if the authority is also regulating industry, it may not legally be able to enter into a PPP. Additionally, at the same time as having confidentiality agreements with its industry partners, it could have similar agreements with other government agencies that might be investigating those partners. Thus, the authority may have to treat all information from both sources as highly confidential.

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## THE CASE FOR A VOLUNTARY CODE OF CONDUCT

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All good relationships are built on trust, yet the culture of voluntary cooperation between the private sector and public and regulatory bodies is uncommon in several parts of the world. However, a voluntary commitment of industry to comply with well-informed and transparent requests from authorities is a strategy being deployed with success in several countries. Awareness is key to ensuring the private sector is incentivized to voluntarily cooperate with national authorities to reach their shared goal – to prevent drug precursors from being diverted into illicit channels. There are tangible benefits

to voluntary collaboration for all stakeholders. However, it should also be noted that in some countries cooperation on issues related to controlled chemicals is an obligation for industry, and the voluntary aspect only comes into play in relation to chemicals not under control. Additionally, collaboration between industry and authorities works both ways – for example, in return for sharing their import/export inventories, authorities would provide relevant information on precursor trends.



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## COOPERATION SHOULD BE TAILORED TO THE CONTEXT OF EACH NATION AND JURISDICTION

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Different approaches show that there is no one-size-fits-all approach to cooperation. Mechanisms range from very formalized with defined roles and responsibilities, to a code of conduct or of ethics that is designed to denote aspirational behaviour for industry. A large number of countries have no formal agreement but have built cooperation based on trust or personal relationships. It is important to understand which of the authorities' possible actions are most appropriate for their jurisdiction. Some jurisdictions may have specific requirements; they may differ depending on whether

there is manufacturing industry, international trade and/or national distribution, and the extent of such activities. In some countries, national approaches may be localized towards specific regions in the country, thus requiring industries to adapt and tailor their focus accordingly. In any case, regular meetings between authorities and industry stakeholders to share updated information, including on new substances being used in illicit drug manufacture and other trends, have proven beneficial.

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## MANAGE STAKEHOLDER EXPECTATIONS TO CREATE A WIN-WIN SITUATION FOR INDUSTRY AND LAW ENFORCEMENT

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Managing stakeholder expectations is critical to the success of PPPs. This involves industry and regulatory/law enforcement authorities ensuring that they have made their priorities and expectations clear. For example, authorities clarify the information they seek and pass responsibility to operators to give it to them; likewise, industry expect feedback on information they share, as well as updates on precursor trends so as to anticipate requests they might receive and/or adjust procedures and workflows. Similarly, through regular consultations with industry representatives, regulators can better know the impact of any new measure, such as a proposal to control a substance. It takes time for the authorities to gauge and refine the potential efficiency of any additional measure, but in the

end this method is a win-win approach because industry is provided operational security, while authorities are guaranteed that enforcement and implementation will be efficient. In some countries the expectations around information sharing have been set using a voluntary programme built by industry associations and the authorities, a.k.a 'by the industry for the industry'. In addition to regulatory authorities, law enforcement may add its knowledge to those meetings, and the voluntary programme may result in a code of practice on selling and managing chemicals within the country concerned. The authorities may also host chemical industry conferences where information is exchanged on chemical imports and exports, control actions, and registration requirements.

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### CASE STUDY: AN EXAMPLE OF VOLUNTARY SELF-REGULATION BY AND FOR THE CHEMICALS INDUSTRY

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Surveillance or monitoring lists of chemicals that are not controlled, but are known to be used in illicit drug manufacture, have been a successful tool for public-private cooperation. Such lists exist at the global level – maintained by the International Narcotics Control Board – the regional level – maintained by, for example, the European Union – and the national level. Authorities encourage industry to be vigilant in their monitoring of the chemicals on the lists, report suspicious orders or transactions, and commit to implementing action to prevent their diversion.

An example of voluntary self-regulation in this regard is the evolution and gradual geographic enlargement of a voluntary code designed to prevent the misuse of gamma-butyrolactone (GBL) and 1,4-butanediol (BDO), two high-volume chemicals of significant legitimate industrial interest. Neither chemical is under

international control, but both may be misused directly and for illicit manufacture of the date rape drug gamma-hydroxybutyrate (GHB). In 2005, the relevant substance sector group of the European Chemical Industry Association (Cefic) endorsed a voluntary code to prevent misuse of the two chemicals. The regional code was subsequently internationalized through cooperation with chemical industry associations and federations elsewhere, and eventually adopted as a global initiative by the International Council of Chemical Associations (ICCA) in April 2017. Since then, the industry associations and federations concerned have worked to spread the coded practices to, and encourage endorsement of the code by, GBL/BDO manufacturers around the world. In 2021, the process was further elevated via requests for relevant companies to sign the code as an expression of their full commitment to ensure that GBL and BDO are not diverted for illicit purposes.

# How PPPs can leverage experience to identify emerging threats

Diversion control units (DCUs) are attempting to monitor the continued safety of chemicals during transportation and prevent theft from or sabotage of plants. Combatting these threats requires a system of open, transparent and close collaboration between associations and national authorities, which can investigate chemicals' sources and whether they are reliable, documented and traceable from 'A' to 'B', and ensure all monitoring parties are consulted at each step an order is processed and handled. Calling upon industry liaisons can be an effective way for DCUs to conduct multi-agency outreach, informing industry of exactly what information they are interested in and how industry can provide assistance and voluntary cooperation. These are a few examples of the achievements that these agency-industry liaisons can assist in realizing:

- A wide-reaching security code can provide a life-cycle approach to addressing threats to drug precursors or segments through outlining and streamlining processes to respond to threats, harmonising the implementation of security measures, and encouraging risk/vulnerability assessments.
- For transportation, a specific safety and security quality assessment system could be used to assess how chemicals are transported from facilities to customers, including assessment of the reliability of both transport companies and receiving parties.
- Commitments to put in place systems and regulation supporting safe storage and transport of chemicals across supply chains are recommended in as many countries as possible to improve security.

## CASE STUDY: VOLUNTARY COOPERATION BETWEEN THE PUBLIC SECTOR AND PRIVATE SECTOR ASSOCIATIONS BASED ON PRINCIPLES OF SHARED RESPONSIBILITY: THE EXPERIENCE OF COLOMBIA

In 2013, the Ministry of Justice and Law of Colombia began a strategy to articulate and strengthen relations with the business sector through various training sessions, workshops and other activities that identified weaknesses and strengths of the current drug control model and defined technical parameters for the handling of controlled substances and products.

In partnership with UNODC, surveys and mechanisms for interaction with private sector users of chemical substances were developed and disseminated. As a result, private sector partners shared information with the Ministry on the legal uses of controlled chemical substances in Colombia. A shared responsibility manual was created, specifically outlining good practices in the handling, storage and final disposal of controlled substances and products, and an instrument was proposed for voluntary cooperation between the Ministry and associations of private companies representing users of controlled substances, to facilitate control processes within the shared responsibility framework. This instrument provides the spark for public-private cooperation in this area and highlights the shared principles and responsibilities of respecting confidentiality and voluntarily reporting suspicious activity.

In order to define thematic guidelines for the shared responsibility manual, the partners reviewed manuals and recommendations proposed by different international organizations including the Organization of American States (OAS) through the Inter-American Drug Abuse Commission (CICAD), the International Narcotics

Control Board (INCB), and UNODC. Additionally, the partners documented success cases in public-private cooperation mechanisms implemented in the field of chemical substances control, as well as those used for other purposes.

This shared responsibility framework highlights the importance of developing sensitivity, trust, cooperation and coordination between public institutions and the private sector, to overcome the divergences caused by their particular interests. It also emphasizes that it is crucial that the PPP partners act as overseers of the correct legal use of chemicals, respecting the principles of shared responsibility as well as tangibly contributing to the joint goal of safeguarding Colombia's Chemical Substances Control System; this would imply the closing of production sites for illicit drugs.

In order to establish the public-private cooperation mechanism, a voluntary and non-binding memorandum of cooperation that facilitates the production of suspicious operations reports has been implemented between Colombia's national government and companies that handle controlled substances and products. This proposal was developed by the Ministry of Justice and Law and the private sector in order to strengthen control, interdiction, intelligence and investigation in line with point four of the peace agreement's implementation plan. So far, six cooperation agreements have been entered into as part of a comprehensive strategy that generates consultations and ultimately contributes to the long-term sustainability of the partnership with the private sector.