Problem Of Diversion Of Precursors And Their Use In Illicit Production Of Drugs In Indian Context

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The imperatives that drive precursor control in India are obvious. India's immediate neighbourhood – South West Asia and South East Asia – accounts for an overwhelming percentage of worldwide opium and heroin production with the latter region also emerging simultaneously as an important center for the illicit Amphetamine Type Stimulants (ATS) industry. Domestically, production of heroin has been reported from the opium growing area while the methaqualone and mandrax industry once seemingly in temporary retreat, has, in recent years, been showing definite signs of a revival. The manufacture of heroin and methaqualone requires the precursor chemical acetic anhydride while manufacture of ATS requires two other precursors, namely ephedrine and pseudo-ephedrine. Preventing the diversion of these chemicals and denying access to them to the regional as well as the domestic illicit drug and psychotropic industry constitutes both the logic and the rationale for precursor control in India.

The mandates of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances set out the broad parameters for precursor control internationally. In India a statutory basis for chemical controls was incorporated into the law with the introduction of Sections 2 (viid) and 9A into the NDPS Act through the May 1989 amendments. Section 2 (viid) defines the concept of precursor chemicals for the purposes of the NDPS Act while Section 9A empowers the Central Government to prohibit, regulate, control and monitor them. These amendments were followed by the NDPS (Regulation of Controlled Substances) Order 1993, which elaborates the controls applicable to any chemical, which has been declared as a 'controlled substance' under the Act. The Government of India has so far notified acetic anhydride N-acetylanthranilic acid, ephedrine, pseudo-ephedrine and anthranilic acid as controlled substances. Given the profile of the illicit drug industry in India and the region, the primary chemicals of concern for us are acetic anhydride, ephedrine, and pseudoephedrine and anthranilic acid. Anthranilic acid was brought under control only a few months back on account of its documented use in the manufacture of methaqualone. So it will be some time before clear trends in the patterns of diversion of this chemical are established. This paper prepares to focus on acetic anhydride and ephedrine both of which have been the subject of numerous seizures and investigation.

Acetic Anhydride

India's installed capacity for acetic anhydride is approximately 70000 metric tons. Annual production in the last few years has generally been between 30000 to 40000 metric tons with north India, specially the state of U.P., accounting for a major percentage of this turnover. Acetic Anhydride has numerous legitimate use particularly in the pharmaceutical, dyestuff and textile industries located in different parts of the country but particularly concentrated in the States of Gujarat and Maharashtra. Considering the dispersal of the acetic anhydride manufacturing and consuming units, the most significant transport corridor for acetic anhydride is from North India to Western India through Delhi and the States of Rajasthan, Madhya Pradesh and Gujarat.

An analysis of seizure data and facts which transpired during various investigations discloses significant fluctuations in the trend and patterns in the diversion and trafficking of acetic anhydride over the last 10 years. The most significant of these is that while in the past trafficking across the Indo-Pakistan border constituted a major percentage of countrywide interdictions, seizures in recent years have been evidently related to domestic diversions for the illicit methaqualone industry. Cases connected with the illicit heroin industry in India account for significantly lower volumes. At the same time no diversions from international trade have been reported although there was one case in 1999 in which acetic anhydride was smuggled out from India in a misdeclared maritime cargo consignment transmitting through Dubai. During the years 2000, 2001 and 2002, 1337 litres, 8589 litres and 3288 litres respectively of acetic anhydride were seized in India. Investigations into the case made in these years bring out the following general trends:

1. A majority of the seizures were related to diversions during domestic transportation.
2. Most of these diversions were intended to supply the illicit methaqualone and mandrax industries.
3. In order to cover the storage and transportation of diverted consignments these were described as other chemicals, such as acetic acid which are not controlled under the NDPS Act.
4. Fictitious and non-existent company names and consignor/consignee addresses were used to cover the storage and transport of diverted assignments.
5. Although the major transport corridor for acetic anhydride passes through the opium growing areas of Madhya Pradesh and Rajasthan and pilferages in transit were noticed, seizures related to the illicit manufacture of heroin constituted a very small percentage of overall seizures.
6. There are no reports of or cases related to the physical smuggling of acetic anhydride across the land borders to either Pakistan or Myanmar.
7. While no cases of sea-borne smuggling were reported, attempts, some

successful, were made to export acetic anhydride in misdeclared maritime cargo consignments. Dubai was used as a transit point in such operations.

8. The complicity of manufacturing or industrial consuming units in diverting acetic anhydride for the illicit manufacture of narcotic drugs and psychotropic substances was not noticed.

Ephedrine

India produces approximately 500 tons of ephedrine every year. Most of this production is concentrated in the States of Tamil Nadu, Andhra Pradesh and Karnataka in Southern India. The major consumption of ephedrine in India is in the pharmaceutical industry located in different parts of the country, for the manufacture of nasal decongestants and bronchodilatory drugs for treatment of asthma.

In marked contrast to acetic anhydride, which services the domestic methaqualone and heroin industries, ephedrine is not diverted for illicit domestic use as there is no manufacture of ATS for which it is a raw material, in India. Diversions of acetic anhydride in India are consequently intended exclusively to supply the illicit ATS industry in Myanmar. The most popular modus operandi is to bring diverted consignments of ephedrine to staging points in the North East and then smuggle them across the border to Myanmar. A multiplicity of modus operandi, routes and modes of transportation are used to move ephedrine from South India to commercial hubs such as Kolkata and Guwahati and given the variety of options available to traffickers in this regard it is extremely difficult to build a generally acceptable 'suspect consignment' profile.

Seizures of ephedrine during the years 2000, 2001 and 2002 aggregated to 436 kg, 920 kg and 136 kg respectively. A sharp increase in seizures has been recorded in the current year with interdiction up to May 2003 accounting for 2234 kg. Investigations into these seizures have disclosed the following major features –

1. A popular modus operandi is to book consignments of ephedrine by train using fictitious and non-existent consignor/consignee names and addresses.
2. The principal transport route is from South India to destinations in the East and North East such as Kolkata and Guwahati.
3. Circuitous routes such as those from Chennai to Delhi and then on to East and North East India are used for the road transportation of diverted consignments.
4. The land routes to Myanmar are the principal trafficking trails although there are unconfirmed reports of misdeclared exports by sea.
5. A network of Tamil expatriates in Myanmar, people of Tamil origin living on the Indo-Myanmar border and Tamil returnees from Myanmar dominates the trafficking of ephedrine from India to Myanmar.

6. The addresses of defunct consuming units are used to procure ephedrine from manufacturing units.
7. Client credentials have in some cases not been adequately verified by manufacturing units.
8. Fictitious addresses, expired industrial registrations, etc. are used by traffickers to obtain ephedrine from manufactures.

The controls mandated on precursor chemicals in India under the NDPS (Regulations of Controlled Substances) Order, 1993 are essentially 'record based' in character. These controls require the contemporaneous maintenance of accounts, the submission of prescribed returns, transportation under stipulated documentation, the immediate reporting of losses and client identification, but do not envisage licensing, registration or pre-transaction permission. This regime basically attempts to strike a balance between the needs of trade and industry and the imperative of preventing diversion by ensuring that controls do not translate into an avoidable impediment to legitimate commerce. Admittedly, this system allows a 'window of opportunity' to the trafficker, but given the size, volume, dispersal and distribution of the legitimate trade in precursor chemicals a regime of physical controls is neither feasible or practicable. The effectiveness of law enforcement agencies in preventing the diversion of precursors, will, consequently, continue to depend upon the thoroughness of their record based and documentation audits and the cooperative partnerships they are able to build up with trade and industry.