International Drug Control Conventions (1961, 1971 and 1988 Conventions)

The three conventions under the United Nations form the current normative framework for control of narcotic drugs, psychotropic substances and precursor chemicals: Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. They are collectively referred to as the International Drug Control Conventions (UNODC, 2013). These conventions facilitate cross-border movement of internationally controlled substances for medical, scientific and industrial use, while ensuring no diversion of these substances to illicit channels. This chapter provides an overview of key provisions of the conventions, such as those relating to the establishment of estimates and assessments for the production and trade of narcotic drugs and psychotropic substances, as well export and import authorization requirements for trade in these substances and their precursors. Additionally, this chapter outlines the operational support, including online pre-export notification system and authorization systems that is provided through the International Narcotics Control Board to the states parties to the conventions.

Prepared by the the International Narcotics Control Board.

Background

The right to health is one of a set of internationally agreed human rights, is inseparable from these other rights and is the overarching objective of the International Drug Control Conventions, which are aimed at safeguarding the health and welfare of humankind. Most recently, Sustainable Development Goal 3 (Ensure healthy lives and promote well-being for all at all ages) calls for a global partnership to ensure that medicines reach those who need them. These medicines include narcotic drugs and psychotropic substances that, while having essential uses in medicine, also pose a high risk of harm, including dependency and health deterioration. Recognizing this, the international community has set up a system of control that aims to facilitate international trade in these substances, while at the same ensuring that such trade is authorized exclusively for medical and scientific ends, and preventing diversion to illicit channels and misuse.

The current international drug control framework has its roots in the International Opium Commission, which met in 1909 in Shanghai and led to the adoption of the International Opium Convention, signed at The Hague in 1912, the first international drug control treaty, laying down initial principles of narcotics control as part of international law. In line with this first initiative, two instruments followed to form the first body of drug control legislation: the International Convention relating to Dangerous Drugs, in 1925, and the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, in 1936.

The Second World War and the subsequent dissolution of the League of Nations in 1946 profoundly disrupted the international legal framework of drug control and forced an overhaul of the normative system. It was in the context of this reform that the United Nations adopted a new international drug control treaty, the Single Convention on Narcotic Drugs, 1961, to recast and replace all pre-existing instruments related to narcotics control. This convention was followed by the adoption of two other legal instruments – the Convention on Psychotropic Substances of 1971 (1971 Convention) and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (1988 Convention), thus forming the current normative framework for control of narcotic drugs, psychotropic substances and precursor chemicals (i.e. substances used in the illicit manufacture of narcotic drugs and psychotropic substances). In addition, the Convention of 1961 was further expanded in 1972 by an amending protocol to become the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961 (1961 Convention). Today, all three conventions have been widely ratified by individual states. There are 186 states parties to the 1961 Convention, 184 to the 1971 Convention and 191 to the 1988 Convention, representing almost universal adherence to the current drug control framework.

In addition to introducing a comprehensive normative framework for international drug control, the Single Convention on Narcotic Drugs, 1961 established the International Narcotics Control Board (INCB) in 1968. The INCB is the independent, quasi-judicial control and treaty monitoring body for the implementation of international drug control treaties. In accordance

with its functions and mandate, the INCB closely monitors international trade in controlled substances to ensure that sufficient quantities of narcotic drugs, psychotropic substances and precursor chemicals are available for medical, scientific and industrial uses, and that there is no diversion from licit sources to illicit traffic. The objective of the conventions is not to hinder international trade in controlled substances, but to provide a framework to ensure they are traded for licit purposes only and that the risks for misuse or diversion of these substances are minimized. To this end, the INCB administers a system of estimates for narcotic drugs, a voluntary assessment system for psychotropic substances and monitors their licit activities through a statistical returns system.

As regards precursor chemicals that can be used in the illicit manufacture of narcotic drugs and psychotropic substances, the INCB supports governments in monitoring their international trade through a system of pre-export notifications and estimated annual legitimate requirements. These mechanisms facilitate investigations into suspicious transactions and seized consignments. The reports received through these mechanisms enables the INCB to support governments in identifying weaknesses in national and international control systems and contributes to rectifying such situations.

As of the end of January 2023, 141 narcotic drugs were listed under the 1961 Convention[1], 167 psychotropic substances under the 1971 Convention[2], and 33 precursor chemicals under the 1988 Convention[3]. Additional substances can be included in or deleted from the list of internationally controlled narcotics drugs and psychotropics substances, following a decision of the Commission on Narcotic Drugs (CND), based on a request of the same by a party to the 1961 Convention, 1971 Convention, or the World Health Organization (WHO). With regard to precursors, changes to the list of controlled precursor chemicals shall follow a decision of the CND based on a request of the same by a party to the 1988 Convention or the INCB.

Scope

All three conventions, together with the relevant resolutions adopted by the United Nations Economic and Social Council (ECOSOC) and the CND[4], require states parties to participate in the control of international trade of internationally controlled substances. With regard to narcotic drugs governed by the 1961 Convention, control may include the limitation of export and import of narcotic drugs to the estimated requirements of the importing country, the control and supervision of ports and free zones, the prohibition of certain transactions[5], and the detention of consignments without accompanying documents. Another important provision is the licence regime for the authorization of the export and import of narcotic drugs. Under this regime, each country must have a competent authority to issue authorizations for the export and import of narcotic drugs.

Somewhat similar provisions exist for psychotropic substances under the 1971 Convention, with varying degrees of control applied to different substances, depending on the level of health risk posed. For example, for psychotropic substances with greatest health risk,

import and export is allowed only if both the importer and exporter are national competent authorities, or persons or companies specifically authorized by the competent authorities of their respective countries to trade in these substances. Export controls for psychotropic substances with less health risk, on the other hand, would be less stringent, as the exporting country may simply send a notification of the export to the authorities of the importing country. Finally, neither prior authorization nor export declaration is required for those substances that pose the least risk to health.

Finally, the 1988 Convention contains further provisions for the control of international trade in precursor chemicals that can be used in the illicit manufacture of narcotic drugs and psychotropic substances. In particular, the 1988 Convention requires states parties to establish and maintain a system to monitor international trade in precursor chemicals in order to facilitate the identification of suspicious transactions involving these substances. Pursuant to the 1988 Convention, the monitoring of international trade in precursors should be conducted in close cooperation with the public and private sectors, including manufacturers, importers, exporters, wholesalers and retailers, who shall inform the competent authorities of suspicious orders and transactions. The states parties are required to notify each other about any reasons to believe that the import, export or transit of precursor chemicals is destined for the illicit manufacture of narcotic drugs or psychotropic substances. In case of sufficient evidence that precursor chemicals are to be used in the illicit drug manufacture, the 1988 Convention provides for their seizure.

Export-related measures

1961 and 1971 Conventions

International trade in narcotic drugs occurs within the framework of the system of estimates.[6] These estimates are annual quantities of internationally controlled narcotic drugs for medical or scientific use in a country as determined by its government. Each country and territory must have estimates in order to manufacture, trade or use narcotic drugs. The INCB reviews, modifies and approves these estimates prior to their publication.[7] This system ensures that there is no oversupply of narcotic drugs beyond projected demand, thereby reducing the risk of diversion of these substances.

It is important to note that estimates are not to be regarded as quotas, because the 1961 Convention permits the countries to amend their estimates at any point during the year in case their legitimate needs for narcotic drugs for medical and scientific purposes change. The INCB would only seek clarification on the requested amendments to estimates when the amended estimates significantly differ from the countries' consumption in the previous periods, or when no justification is provided for the requested changes.

In addition to estimating its annual amount of narcotic drugs for licit use, a state party is required to maintain a competent authority to issue export and import authorizations for narcotic drugs. This authority is also responsible for ensuring that these authorizations

contain the information as required by the 1961 Convention, their format follow a template approved by the CND, and that the quantity of a narcotic drug being traded does not exceed the relevant estimates.

When trading internationally controlled narcotic drugs, copies of import or export authorizations must be exchanged with the authority of the trading counterpart. The authority of the exporting country must ensure that a copy of the export authorization is included with the relevant shipment. Authorities are also responsible for tracking the completion of an authorized shipment of narcotic drugs by comparing the relevant export confirmation and import endorsement to ensure no diversion occurred during transit.

The 1971 Convention sets out the import and export controls for psychotropic substances listed in Schedules I-IV of the Convention.[8] Psychotropic substances with the highest health risk are listed in Schedule I, followed by those with fewer health risks and greater medical use. Controls for substances included in Schedules I and II are effectively identical as narcotic drugs under the 1961 Convention, though control measures with regard to the trading parties are required for substances included in Schedule I of the 1971 Convention.[9] Whilst the 1971 Convention requires fewer control measures for substances included in Schedules III and IV, countries determined that additional trade controls were necessary for these substances after the adoption of the Convention. Subsequent ECOSOC resolutions therefore invited governments to extend the control measures for substances in Schedules I and II of the 1971 Convention to substances in Schedules III and IV.[10]

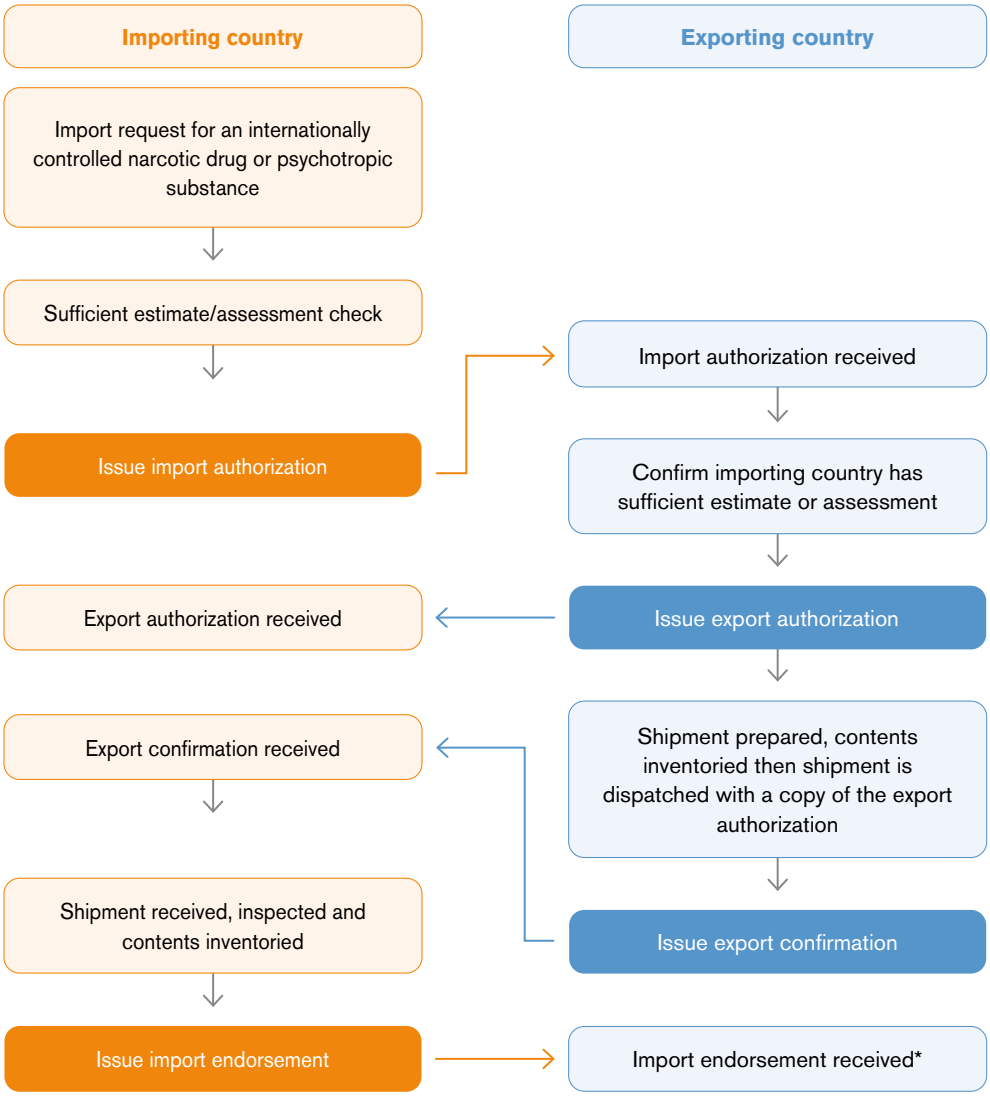
Although having similar control measures over the international trade of narcotic drugs and psychotropic substances, a key difference between the 1961 and 1971 Conventions is the assessment system for psychotropic substances. Established by ECOSOC resolutions, the assessment system (annual quantities of internationally controlled psychotropic substances for medical or scientific use in a country) is voluntary and the assessed quantities of psychotropic substances do not require approval by the INCB. Instead, they are immediately published online after being received by the INCB. Countries may update their assessments at any time, though the INCB recommends such updates are carried out at least once every three years.

Unique to the 1971 Convention is a provision which allows countries to notify all the states parties to the Convention that the notifying country is prohibiting the import of a specific psychotropic substance controlled under the Convention.[11] This is another tool for countries to avert potential diversions of those substances. The article also affords the notifying country the right to issue exceptional authorizations to import a substance that it would normally prohibit.

Nowadays, for all practical purposes, nearly all governments generally apply the same trade control measures for narcotic drugs and psychotropic substances as the requirements under both the 1961 and 1971 Conventions are closely aligned. One key difference is that certain preparations of narcotic drugs, listed in Schedule III, are exempt from international control, although countries still need to report the legitimate needs of narcotic drugs for these purposes.

Figure 1 below illustrates the key steps for importing and exporting countries to undertake for trade in narcotic drugs or psychotropic substances. This is a simplified workflow and does not necessarily reflect all the requirements of the 1961 and 1971 Conventions nor any legal requirements included in a country's own national drug control legislation.

Figure 1: Steps to be taken by national drug control authorities for the import and export of substances controlled under the 1961 and 1971 Conventions



* Upon completion of the shipment, if the packaging has been tampered with or if the export confirmation and import endorsement are in disagreement, then authorities from both the importing and exporting countries should take necessary steps to investigate whether a diversion has occurred.

1988 Convention

The control measures over trade in, and use of, precursor chemicals are based on provisions of Article 12 of the 1988 Convention as well as relevant UN resolutions.[12] In general, control measures over precursor chemicals are less stringent than those applied to narcotic drugs and psychotropic substances listed in the 1961 Convention and 1971 Convention, respectively.

Parties to the 1988 Convention are required to establish and maintain a system to monitor international trade in precursor chemicals. The monitoring system shall be applied in close cooperation with manufacturers, importers, exporters, wholesalers and retailers, who should inform the competent national authorities of suspicious orders and transactions.[13] In practice, the monitoring systems applied nationally take into account the extent, importance and diversity of the licit use over precursor chemicals in the country in order to facilitate their legitimate trade, while preventing diversion of these chemicals into illicit channels.

To monitor international trade, most countries apply a system of authorization to the imports and exports of precursors chemicals. These national systems of authorization may, however, differ from country to country. The most common national systems of authorization may require issuance of any of the following authorizations and/or permits by the government authority:

- A general authorization or permit for the imports or exports of precursor chemicals without any further notifications to the government authority.
- A general authorization to import or export a substance, with an obligation by the importer or exporter to report exports to the government authority at least annually.
- A general authorization granted by the competent national authority to a physical or legal person to import or export a substance, with an obligation by the importer or exporter to notify the government authority of individual export prior to arrival or dispatch, respectively. The importer or exporter does not need government authority's approval for each import/export.
- An individual export permit is required from the government authority to a physical or legal person prior to import or export of the substance. The importer or exporter needs government authority's approval for each import/export.

A limited number of countries have also banned or prohibited the import or export of particular precursor chemicals. There are also countries that do not yet control import of export of all precursor chemicals under international control. A compilation of the systems of authorization that governments apply to precursors chemicals is regularly shared with all competent national authorities of the parties to the 1988 Convention.

The 1988 Convention also provides for monitoring of international trade in precursor chemicals through a system of pre-export notifications. In particular, the exporting countries are obliged to provide pre-export notifications for shipments of precursor chemicals listed in Table I of the

Convention, if the importing countries have requested such pre-export notifications pursuant to Article 12(10)(a) of the 1988 Convention. Pursuant to this requirement, each country from whose territory a substance in Table I is to be exported shall ensure that, prior to such export, the competent authorities of the importing country are provided with mandatory information, in order to verify its legitimacy.

In order to also receive pre-export notifications for substances in Table II of the 1988 Convention, the governments of a number importing countries have requested the extension of the provisions of Article 12(10)(a) of the 1988 Convention. While the provision of pre-export notifications for precursors listed in Table II of the 1988 Convention is not mandatory, most exporting countries provide such notifications for shipments of Table II substances as well.

Furthermore, with a view to providing exporting countries with an additional tool to monitor international trade in selected precursors of amphetamine-type stimulants and thus lowering the risk of their diversion, countries are requested to provide the estimates of their annual legitimate requirements for certain substances.[14] These annual legitimate requirements provide an indication of the amounts of these substances that the country may need to import to satisfy its legitimate needs, and are published on the INCB website. They are not to be regarded as quotas for imports of the precursor chemicals in question and can be changed by importing countries at any point during the year, if necessary.

Finally, the 1988 Convention provides that imports and exports of precursor chemicals must be properly labelled and documented.[15] Specifically, the commercial and transportation documents should list the names of precursor chemicals, as stated in Tables I or II of the 1998 Convention, their amounts and provide details of the exporter and importer, and the consignee if available. The commercial documents used in connection with imports and exports of precursor chemicals should be maintained for at least two years and be available for inspection by the competent national authorities.

Trade controls for controlled substances in free ports and zones

A free port or free zone is typically a designated area within a country in which companies can import, export and manufacture goods without certain customs restrictions being implemented, such as reduced or no taxes and tariffs, or reduced control procedures and documentation. The limited supervision and lack of custom controls that tend to accompany free ports and free zones, however, may allow traffickers to store and smuggle illicit substances. In response to this heightened risk of illicit trafficking, the three international drug conventions require the states parties to exercise the same supervision and control of internationally controlled substances in free ports and free zones as in other parts of their territories.[16]

Simplified control measures during emergency situations

While the international trade of controlled substances is regulated by relevant administrative procedures established by states parties pursuant to treaty obligations as outlined above, the International Drug Control Conventions also provide scope for the temporary exemption of some control measures under specific circumstances. For instance, during emergency situations that require the use of controlled substances for humanitarian assistance, or when the government of the exporting country is of the view that the export of controlled substances is essential for the treatment of the sick, in accordance with Article 21 of the 1961 Convention.

A number of internationally controlled substances, including for example morphine, diazepam and phenobarbital, which are listed by the WHO as essential medicines and often included in emergency health kits, are vital for pain management, palliative care, surgical care and anaesthesia, as well as for the treatment of mental health and some neurological conditions. Other substances, such as fentanyl and midazolam, were also used in many countries to treat patients with COVID-19 admitted to intensive care units. Ensuring the availability of these controlled substances during emergency situations is critical to satisfy the sudden and acute needs of the receiving countries, in particular at the onset of emergencies.

Humanitarian relief agencies have found it difficult to rapidly obtain controlled substances for medical care in emergency situations, partly because of the additional administrative requirements for their international movement. It has been reported that some of these controlled medicines have been removed from emergency health kits in order to minimize possible delays that their presence might cause to the provision of humanitarian assistance.

The international community has long noted the urgent need for a practical solution to this obstacle. The *Model Guidelines for the International Provision of Controlled Medicines for Emergency Medical Care* (WHO, 1996) represents a concerted effort to expedite the supply of controlled substances during emergency situations through simplified control measures. When exporting controlled substances to sites of emergency, governments may permit such exports without the corresponding import authorizations and/or estimates. During such circumstances, estimates for the controlled substances can also be submitted by the exporting country in lieu of the recipient country.

In responding to recent international humanitarian emergencies, for instance the earthquake in Haiti in 2021 and the port explosion in Beirut in 2020, the INCB has taken active steps to remind all countries that simplified control procedures are permissible during these circumstances.[17]

Operational support provided to countries on trade facilitation

Online platforms

International Import and Export Authorization System

When the 1961 and 1971 Conventions entered into force, the only viable way to exchange import and export authorizations was for national authorities to issue paper documents and to exchange them via postal or express delivery services. Although that modality remains valid, states parties to these conventions foresaw the need to modernize this process. Through several CND resolutions, in particular its resolution 55/6[18], the CND instructed the United Nations Office on Drugs and Crime to develop an online platform for the secure exchange of import and export authorizations between relevant national authorities for the trade in internationally controlled narcotic drugs and psychotropic substances. Additionally, these resolutions also mandated the INCB to administer and promote this online system among states parties to the 1961 and 1971 Conventions.

As a result of this initiative, the International Import and Export Authorization System (I2ES) for narcotic drugs and psychotropic substances was launched in 2015.[19] Designed to be in conformity with the 1961 and 1971 Conventions, the platform is used by national drug control authorities to securely issue and exchange electronic import and export authorizations for substances controlled under the 1961 and 1971 Conventions. The system partially automates many of the steps illustrated in Figure 1, including automatic checking of available estimates and assessments, and is available at no cost to countries.

Pre-Export Notification Online

As previously indicated, the 1988 Convention requires states parties to issue pre-export notifications when exporting a precursor chemical that is included in Table I of the Convention to those importing countries that have invoked Article 12(10)(a).

In order to allow countries to exchange pre-export information more rapidly and for importing countries to confirm the legitimacy of the shipment, or to object to proposed shipments in real time, in case of suspicious transactions, the INCB developed the Pre-Export Notification (PEN) Online system.[20] Launched in 2006, PEN Online allows countries exporting precursor chemicals to issue and respond to pre-export notifications electronically, in compliance with the requirements of the 1988 Convention.

With 170 countries registered as of 2023, the INCB expanded the PEN Online system to allow countries to voluntarily issue pre-export notifications for precursor chemicals beyond

those under international control. This expansion, known as PEN Online Light, is a tool for countries to further safeguard international trade by exchanging information on planned exports of other alternative precursor chemicals that could potentially be exploited for the illicit manufacture of drugs.[21]

Import authorization assistance and verification

As previously indicated, states parties must issue import and export authorizations to permit the trade in internationally controlled narcotic drugs and psychotropic substances. Although the format and information in these documents have been standardized by the relevant conventions as well as the CND, drug control authorities in exporting countries may have doubts regarding the authenticity of an import authorization. Typically, this occurs when the exporting authority has not previously received an import authorization from a country. Additionally, if security features, contact details or other information regarding the counterpart have changed on the authorization document the exporting authority may wish to validate these changes prior to issuing an export authorization.

The INCB, through its Secretariat, assists countries which may need help in validating the authenticity of an import authorization document. The INCB Secretariat maintains a file containing sample specimens of import authorizations from states and non-states parties to the drug control conventions for this purpose. If the INCB Secretariat is not able to immediately confirm the validity of an import authorization presented by the authorities an export country, then the Secretariat will attempt to either facilitate communication between the authorities of the two countries or attempt to validate the import authorization with the issuing authority on behalf of the authorities of exporting country.

Endnotes

1 See https://www.incb.org/incb/en/narcotic-drugs/Yellowlist/yellow-list.html.

2 See https://www.incb.org/incb/en/psychotropics/green-list.html.

3 See https://www.incb.org/incb/en/precursors/Red_Forms/red-list.html.

4 Established by ECOSOC in 1946, the CND is the central drug policy-making body within the United Nations System and may make recommendations for the implementation of the International Drug Control Conventions.

5 These prohibited transactions include exports of consignments to a post office box, or to a bank to the account of a party other than the party named in the export authorization, and exports of consignments to a bonded warehouse unless the government of the importing country certifies on the import certificate, produced by the person or establishment applying for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse.

6 See Article 19 of the 1961 Convention.

7 Subject to the provisions of Article 12 of the 1961 Convention.

8 See Article 12 of the 1971 Convention.

9 See Article 7 of the 1971 Convention for special provisions regarding substances in Schedule I.

10 See resolutions 1985/15 and 1987/30, *Improvement of the control of international trade in psychotropic substances listed in Schedules III and IV of the 1971 Convention on Psychotropic Substances*, UN documents E/RES/1985/15 and E/RES/1987/30, 28 May 1985 and 26 May 1987.

11 See Article 13 of the 1971 Convention.

12 Including: resolution 1995/20, *Measures to strengthen international cooperation to prevent diversion of substances listed in table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and used in the illicit manufacture of stimulants and other psychotropic substances*, UN document E/RES/1995/20, 24 July 1995; and resolution 49/3, *Strengthening systems for the control of precursor chemicals used in the manufacture of synthetic drugs*, UN document E/2006/28 E/CN.7/2006/10, 17 March 2006.

13 Article 12(9)(a) of the 1988 Convention.

14 These are methylenedioxyphenylacetone (3,4-MDP-2-P), ephedrine, phenylacetone (P-2-P) and pseudoephedrine, as well as estimated requirements for imports of preparations containing those substance (see UN document E/2006/28 E/CN.7/2006/10).

15 Article 12(9)(d)-(e) of the 1988 Convention.

16 Outlined in Article 31 of the 1961 Convention, Article 12 of the 1971 Convention and Article 18 of the 1988 Convention.

17 Further guidance on the implementation of these procedures is summarized in *Lessons from Countries and Humanitarian Aid Organizations in Facilitating the Timely Supply of Controlled Substances during Emergency Situations* (INCB, 2021).

18 See resolution 55/6, *Developing an international electronic import and export authorization system for licit trade in narcotic drugs and psychotropic substances*, UN document E/2012/28 E/CN.7/2012/18, 16 March 2012.

19 See https://i2es.incb.org.

20 See https://www.incb.org/documents/PRECURSORS/PEN/PEN_Online_Brochure_v2022.pdf.

21 See https://www.incb.org/documents/PRECURSORS/PEN/PEN_Online_LIGHT_brochure_final.pdf.