Main Requirements of the International Drug Control system: focus on drug trafficking
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Structure

• The international drug control conventions

• Institutional framework

• Main mandatory requirements

• Examples of inter-State cooperation or national level coordination to counter drug trafficking

• Possible topics for consideration
A. International drug control system
Some historical background

• Surge in opium abuse in China at the end of the XIXth century
• Growing misuse of narcotics in Europe and the United States
• Increasing threat that the related illicit traffic posed to governments’ stability

A. INTERNATIONAL DRUG CONTROL

1909: Shanghai Conference – Opium Commission: 13 countries

1912: International Opium Convention (The Hague)
Objective: limitation of international shipments of drugs (opium, morphine, cocaine, heroine) for medical purposes; entered into force in 1915; international importance: 1919 peace treaty of Versailles

1920: LEAGUE OF NATIONS
Establishment of ‘Advisory Committee on Traffic in Opium and Other Dangerous Drugs’ (now Commission on Narcotic Drugs)

1925: Second International Opium Convention
Cannabis under control; statistical control system, import certificates and export authorizations; Permanent Central Narcotics Board (now INCB)

1931: Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs
Creation of the Drug Supervisory Body

1936: Convention for the Suppression of the Illicit Traffic in Dangerous Drugs
International Conventions on Drug Control

Promotion and protection of public health

1961 Single Convention on Narcotic Drugs (as amended in 1972)
186 Parties

1971 Convention on Psychotropic Substances
184 Parties

Ensure the availability of controlled substances exclusively for medical and scientific purposes, and prevent their diversion

1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
190 Parties
Health at the centre of the drug control system

To protect the health of people, particularly the most vulnerable, from the dangerous effects of drug use and from drug use disorders

Reduction of illicit supply

Public health

Ensuring licit supply and demand (availability of and access to controlled substances for medical purposes)

Reduction of illicit demand

Reduction of health and social consequences related to drug use

Respect for human rights

Which substances are controlled?

Selection of controlled substances is based on scientific assessments (drugs: WHO; precursors: INCB) and ultimately decided by States
1961 and 1971 Conventions

- Consolidation of earlier drug control treaties; mainly plant-based drugs ('61)
- Control of cultivation (coca bush and cannabis plant in addition to poppy plant); establishment of national monopolies
- Control of synthetic drugs (ATS, hallucinogens, sedative-hypnotics such as barbiturates and benzodiazepines) ('71)
- 1972 Protocol and 1971 Convention: treatment to drug abusers, to be considered in addition or as alternative to imprisonment
- Creation of the INCB, merging the Permanent Central Board and the Drug Supervisory Body, to ensure balance between supply and demand

1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

- Harmonized definition and scope of offences and sanctions
e.g.: trafficking, money-laundering
- Established a control system for precursor chemicals
- Establishes mechanisms for cooperation
- Legal means to effectively combat illicit trafficking
Common goal

To protect public health

Law enforcement and criminal justice efforts are amongst the *means* to achieve that goal

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UN Convention Against Transnational Organized Crime

- 189 Parties
- Scope of application:
  - (a) participation in an organized criminal group
  - (b) corruption
  - (c) money-laundering
  - (d) obstruction of justice and
  - (e) serious crime
which is transnational and involves an organized criminal group
UN Convention Against Transnational Organized Crime

• Organized criminal group: “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit”

• Serious crime- defined as “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty”

UN Convention Against Corruption

• Applies to the prevention, investigation and prosecution of, inter alia:
  – active and passive bribery (national and foreign public officials, and in the private sector)
  – Trading in influence, abuse of functions, illicit enrichment

• Array of measures on freezing, seizure, confiscation and return of proceeds of corruption offences

• 184 Parties
International Convention for the Suppression of the Financing of Terrorism

• Article 2: Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An Act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

• 188 Parties

The institutional infrastructure for international drug control

UN Commission on Narcotic Drugs (CND)

❖ Central Policy-making Body

❖ 53 member States elected by ECOSOC for 4 Years
❖ Annuals Sessions

❖ Functions

❖ monitors global trends
❖ proposes new concerted measures or agreed policies
❖ decides on inclusions and changes in the Schedules
❖ CND reports to the ECOSOC and to the GA
The institutional infrastructure for international drug control

INTERNATIONAL NARCOTIC CONTROL BOARD (INCB)

- **Permanent and Independent Body**
  - 13 members elected for a 5 years term in their personal capacity

- **Functions**
  - Monitors implementation of the conventions
  - Power of sanction
  - Administers the statistical system of drug control
  - Submits an annual report on the world situation.

The institutional infrastructure for international drug control

WORLD HEALTH ORGANIZATION (WHO)

- Treaty role on reviewing substances and making recommendations to the CND on scheduling
- Leading entity on global health matters
- MiNDbank online database (www.mindbank.info)
The institutional infrastructure for international drug control

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC)

- Provides technical assistance to States
- Assists in efforts to reduce drug problem
- World Drug Report
- Assists the CND and the INCB in implementing their treaty-based functions
- Container Control Programme, Global Programme against Money-Laundering, Legal services, Drug repository, Sherloc database

Main Mandatory Requirements

- Institutional Infrastructure at national level
- Regulation of Trade in Controlled Drugs for Licit Use and in Controlled Chemicals
- Demand Reduction
- Drug-Related Criminal Justice
- International Justice Sector Cooperation
Main Mandatory Requirements

Institutional Infrastructure

- Establish and maintain a special licit drug regulatory administration (1961, 1971 C´n)
- Establish and maintain central offices for international cooperation
  - precursor control (1988 C´n)
  - mutual legal assistance (1988 C´n)
  - maritime cooperation (1988 C´n)

Main Mandatory Requirements

Regulation of Trade in Controlled Drugs for Licit Use and in Controlled Chemicals

- Classify each controlled drug and chemical under domestic law to ensure the minimum required Convention controls apply (1961, 1971, 1988 C´n)
- Limit the use of drugs to and ensure their availability for medical and scientific purposes (1961, 1971, 1988 C´n)
- Prohibit opium, coca and cannabis cultivation, where “...prevailing conditions in the country ...render...prohibition ...the most suitable measure in its opinion, for protecting public health and welfare and preventing...diversion”. (1961 C´n)
Main Mandatory Requirements

Regulation of Trade in Controlled Drugs for Licit Use and in Controlled Chemicals

- Establish and maintain a national (registration) licensing and permit systems of controlled drugs and chemicals:
  - cultivation (1961 C´n)
  - supply by health care professionals (1961, 1971 C´n)

- Establish and maintain forward estimates and \textit{ex-post} statistics of domestic licit drug demand, communicate them to the INCB and base domestic regulatory action on them to prevent divertable excess stocks (1961, \approx 1971 C´n)

- Establish and maintain the compliance inspection of regulated persons and enterprises (1961, 1971, 1988 C´n)
Main Mandatory Requirements

Demand Reduction

Prevent drug abuse and make treatment and rehabilitation measures available (1961, 1971, 1988 C´n)

Critical to discuss: how the system deals with persons who illicitly use drugs (different models)

Main Mandatory Requirements

Drug-related Criminal Justice

- Establish and adequately punish drug trafficking and related conduct, including money-laundering, coordinate law enforcement action and cooperate in law enforcement training, intelligence exchange and operations (1961, 1971, 1988 C´n)
- Establish measures to enable the tracing, freezing, seizure and ultimate confiscation of the proceeds of drug-related crime (1988 C´n)
- Establish possession, purchase or cultivation of drugs for illicit personal consumption as a criminal offence (subject to constitutional principles and basic concepts of legal system), for which treatment, rehabilitation may be provided as alternatives to conviction and punishment or in addition (1961, 1971, 1988 C´n)
Main Mandatory Requirements

International Justice Sector Cooperation

• Provide international legal cooperation to other Parties in their serious drug-related casework:
  - mutual legal assistance (1988 C’n)
  - controlled delivery (1988 C’n)
  - law enforcement cooperation (1988 C’n)
  - maritime coop. against trafficking on the high seas (1988 C’n)
  - use of mail services (1988 C’n)
  - commercial carriers (1988 C’n)

Examples of UNODC programmes
promoting inter-State cooperation or national level coordination
to counter drug trafficking
Global Programme Preventing and Combating Organized & Serious Crime

JUDICIAL COOPERATION NETWORKS

Informal vs. Formal Judicial Cooperation

• Judicial cooperation is often slow and cumbersome, for example because of:
  – Excessive restrictions on the provision of information;
  – Criminal justice practitioners lack knowledge of the procedural requirements of the requested country and do not consult counterparts abroad before sending MLA requests and/or they do not know who to contact or how.
  – Lack of knowledge about how to use the UN Conventions if no bi-lateral or regional treaty can be used as a legal basis.
  – Language obstacles that impede communications
  – Internal coordination issues, etc.
Why Judicial Cooperation Networks?

Informal cooperation is complementary to formal channels and should be used first where possible.

Judicial cooperation networks facilitate informal cooperation.

Overview of Judicial Cooperation Networks

- **EJN**: European Judicial Network, the oldest and the inspiring model
- **WACAP**: West African Network of Central Authorities and Prosecutors, addressing all transnational serious crimes
- **CASC**: Network of Prosecutors and Central Authorities from Source, Transit and Destination Countries in response to Transnational Organized Crime in Central Asia and Southern Caucasus
- **GLJCN**: Great Lakes Judicial Cooperation Network, launched but still being operationalized.
- **Sahel Platform**: Judicial Platform for the 5 countries of the Sahel, focusing on terrorism
What are Judicial Cooperation Networks?

• Comprised of 2 designated Contact Points per country who can be officials of central authorities in charge of MLA and/or the judicial and prosecuting authorities with responsibilities in the field of international judicial cooperation

• Covering all forms of transnational serious crime (e.g. drug trafficking), including terrorism

• Holding regular meetings of Contact Points, hosting websites and developing information exchange tools, providing advice and training

Role of Contact Points

• Facilitate judicial cooperation in criminal matters, in all forms, with other jurisdictions within the region and outside the region

• Assist with establishing direct contacts between competent authorities

• Provide legal and practical information necessary to prepare an effective MLA request or to improve judicial cooperation in general

• Support the organisation of training sessions on judicial cooperation and on different issues pertaining to serious crime

• Make the network known by their national authorities.
Results of Judicial Cooperation Networks

- Direct contacts within and outside the region resulting in better communication and operational cooperation to overcome obstacles to MLA and extradition

- Training and exchange of information & good practices resulting in more efficient processes and more effective requests leading to more successful prosecutions

Impact, Impact, Impact!

- Contact points report a greater efficiency in handling incoming and outgoing requests for MLA and extradition
- Action taken upon informal request before the formal request is received to speed up the process
- First requests made between English and French speaking countries & long-standing obstacles settled due to trust/contacts
- Central authorities created or strengthened
- Identification of national coordination issues (between competent authorities)
- Trained investigators, prosecutors and judges
International cooperation tools

- MLA Request Writer Tool
- Basic tips for investigators and prosecutors for requesting electronic/digital data/evidence from foreign jurisdictions
- Online directory of competent national authorities accessed through the SHERLOC database
- Guides on MLA, Asset Confiscation and Transfer of Sentenced Persons and Best Practice guides
Main Pillars and Geographic Coverage

Institutional Integrity

Effectively fighting organized crime, drug trafficking in particular

Capacity Building

Regional and International Cooperation

West Africa
Cabo-Verde, Ghana, Guinea-Bissau
Associated Country: Nigeria

Latin America & the Caribbean
Dominican Republic, Panama
Associated Countries: Argentina, Brazil, Bolivia, Colombia, Ecuador, and Peru
CRIMJUST Outcomes

OUTCOME 1
• Enhanced capacity of law enforcement to collect evidence for successful prosecutions of OC cases, exchange data and conduct joint investigations to tackle OC at the inter-regional level.

OUTCOME 2
• Enhanced capacity of the judiciary to prosecute and adjudicate OC cases and enhanced transnational judicial cooperation.

OUTCOME 3
• Enhanced integrity and accountability of law enforcement and the judiciary.

OUTCOME 4
• Enhanced capacity of CSOs to identify, monitor and propose measures to address key integrity and accountability challenges in effectively combating OC in law enforcement and the judiciary.

PROJECT FUNDED BY THE EUROPEAN UNION – COCAINE ROUTE PROGRAMME

Container Control Programme

A Border Management Strategy for CARGO
- Seaports
- Airports
- Land borders
**What is CCP?**

**Joint UNODC / WCO initiative launched in 2004**

**Aim:**
To establish dedicated Container Control Units to identify illicit shipments (Land – Sea – Air)

**OBJECTIVE:**
Risk based
- Selection
- Inspection
- Detection

**Following WCO - SAFE Framework of Standards to SECURE and FACILITATE global TRADE**

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**Know your client?**

- 90% of world trade transported by sea
- 650 million TEU movements per annum
- Less than 2% of containers are verified through physical examination
Database of legislation – Search by country or crime type

SHERLOC

Resource Material Series No. 106

Competent National Authorities

Online Directory of Competent National Authorities

The online directory of Competent National Authorities offers easy access to the contact information of over seven hundred competent national authorities from 180 countries. It includes the names, addresses, and telephone numbers of these authorities, as well as their roles and areas of expertise.

Resources:
- Legal and practical requirements
- View of the United Nations as the legal basis
- Guidance for national laws and policies

Initiation of requests that can be made through INTERPOL

Access is granted by the competent authority to the United Nations for the authorized use of the directory.

Feedback Survey

UNODC
United Nations Office on Drugs and Crime
Possible topics for consideration

- Role of each agency
- Classification of substances / Quality forensic analyses
- Proportionality of penalties (drug trafficking, consumers) / prison overcrowding in some countries
- Treatment of consumers (Prevention / medical needs of dependent persons / differentiate first time offenders?)
- Determination of intentional elements: threshold amounts or judicial determination?
- Non-medical use and misuse of pharmaceuticals
- Use of the Internet in facilitating drug-related activities