



**INTERNATIONAL NARCOTICS CONTROL BOARD**

**2010**

# Report



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*Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2010 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (E/INCB/2010/4)

The updated lists of substances under international control, comprising narcotic drugs, psychotropic substances and substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, are contained in the latest editions of the annexes to the statistical forms (“Yellow List”, “Green List” and “Red List”), which are also issued by the Board.

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The text of the present report is also available on the website of the Board ([www.incb.org](http://www.incb.org)).



INTERNATIONAL NARCOTICS CONTROL BOARD

# **Report**

## **of the International Narcotics Control Board for 2010**



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## I. Drugs and corruption

1. Nothing has a more debilitating effect on efforts to curtail the illicit drug trade than the successful attempts of criminal organizations to intimidate and corrupt public officials. Nothing undermines international drug control efforts as much as the numerous cases of corrupt officials who facilitate or participate in drug trafficking. Yet violence and corruption are integral parts of illicit drug markets.
2. Intimidation and corruption are the most effective tools used by organized criminal groups to counter the drug control efforts of law enforcement agencies. They are two sides of the same coin. An organized criminal group can purchase the complicity of a public official just as easily as it can pay for his or her assassination. The intimidation or corruption of public officials is ultimately what empowers criminal organizations, often placing the organizations beyond the reach of the law. Corruption is a pernicious phenomenon that has a deep and detrimental effect on people, societies and social institutions. It is frequently responsible for the disappointing results (or outright failure) of drug control efforts.
3. When it comes to fighting organized crime and stopping the illicit drug trade, the police, together with other criminal justice officials, have a difficult and often dangerous task. They work tirelessly and courageously, but the odds are often stacked against them when they confront some of the wealthy and powerful criminal organizations involved in drug trafficking. In some cases, the police face incredible pressure from organized crime: when they are not fending off attacks or immediate threats of violence and retaliation, they are thwarting attempts to corrupt officials, including officials from their own ranks. In spite of the power of organized crime, an overwhelming number of law enforcement and judicial officials worldwide resist corruption and intimidation. Regrettably, some law enforcement and judicial officials even lose their lives in the fight against drug-related corruption.
4. Without adequate support and protection, many law enforcement and judicial officials find themselves confronted with a difficult choice: to become victims of violence and possibly even lose their lives; or to sacrifice their integrity and become the accomplices of ruthless criminals. If they choose to accept a bribe, for example, they (and many of the drug control efforts of the law enforcement and criminal justice institutions for which they work) are compromised forever.
5. Vast drug trafficking networks have emerged in most parts of the world, extending across borders. The huge profits generated by illicit drug markets fuel the growth of powerful criminal organizations, whose financial resources sometimes exceed those of state institutions. That the intimidation and corruption of public officials facilitate the exploitation of those illicit drug markets by criminal organizations is a fact that cannot be neglected. All of the factors described above contribute to the weakening of law enforcement and criminal justice institutions. They constitute a threat to national and international security and stability.
6. Over the years, the International Narcotics Control Board has expressed its deep concern about the many ways in which the illicit drug trade is facilitated by violence and corruption. The Board is responsible for examining the functioning of the international drug control mechanisms at the national and international levels. Thus, the Board is well aware of how the huge profits generated by illicit drug markets have fuelled corruption. It is also quite aware of the fact that corruption and the illicit drug trade are interlocked with each other in mutually reinforcing cycles. The Board is very concerned about the broader social consequences of drug-related corruption, including the fact that in some cases the illicit drug trade and the accompanying violence and corruption have weakened governments and debilitated social institutions.
7. It is important to recognize that drug-related corruption, or “narco-corruption” as it is often called, allows some criminal organizations to perpetuate their illicit activities, to operate with minimal interference from the authorities and to derive maximum profit from illicit drug markets. For international drug control to be more effective, the violence and corruption associated with drug trafficking must be addressed more resolutely and more systematically. Drug control strategies must be informed by a better understanding of how criminal organizations conspire to buy the complicity of key officials, particularly law enforcement and criminal justice officials, and often succeed in weakening drug control initiatives and operating with relative impunity. The stakes are high.

The widespread corruption and recurring violence associated with illicit drug markets can easily get out of control and disrupt or completely paralyse existing drug control mechanisms.

8. Combating corruption is an essential element of any comprehensive strategy to curb drug trafficking. Putting in place effective measures to counter corruption is one way to reduce the illicit drug trade and the proliferation of powerful organized criminal groups. The present chapter focuses on the issue of corruption and the complex linkages between it and illicit drug markets, as well as on strategies to fight drug-related corruption. The Board's main interest lies in identifying practical measures and strategies that can be used to help counter drug-related corruption at the national and international levels. Some of those measures are not very different from those designed to combat corruption in general. Others will need to be carefully integrated into existing drug control strategies.

9. International cooperation in repressing drug trafficking and the related violence and corruption is a necessity. It was precisely the need to foster such cooperation that led to the establishment of the International Narcotics Control Board in 1961 and the adoption of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.<sup>1</sup> Since then, other international instruments have been adopted to remove obstacles to international cooperation in fighting organized crime and corruption. Over the past 10 years or so, the implementation of the United Nations Convention against Transnational Organized Crime<sup>2</sup> and the United Nations Convention against Corruption<sup>3</sup> has led to the development of some effective tools for the prevention and control of organized crime and corruption. Those tools can be used to fight drug-related corruption and can help States cooperate more effectively in efforts to disrupt drug trafficking operations.

10. In this chapter, there is a brief section on corruption and illicit drug markets and on the impact of drug-related corruption. That is followed by a section on the corrupting influence of organized crime and how it can undermine international drug control

efforts; that section includes a discussion on some of the main manifestations of drug-related corruption among the police, the military and the judiciary, as well as among policymakers and politicians. The third section outlines some strategies for controlling drug-related corruption and emphasizes the particular importance of international cooperation in addressing that problem. The final section contains a list of recommendations made by the Board to prompt Governments and drug control authorities to reconsider what they can do to prevent and control drug-related corruption.

## **A. Drug-related corruption and its impact**

### **1. What is corruption**

11. Corruption is not a new phenomenon, nor is it a simple one. There may not be universal agreement on a definition of corruption, but corruption in one form or another is condemned everywhere. It takes on many forms, reflecting the many ways in which people use and exchange wealth and power and the relative strength of the norms and institutions that govern and control those exchanges. In the final analysis, it is the responsibility of governments to protect their populations against intimidation and corruption.

12. There is no reason to believe that drug-related corruption is fundamentally different from other forms of corruption. Bribery, bribe-seeking and extortion are often associated with drug trafficking or organized crime in general, but they are also prevalent in many other social and economic areas. In some instances, other types of corruption may also be significant and damaging; examples of such corruption include electoral fraud; procurement fraud; or corruption related to the smuggling of migrants, trafficking in persons, trafficking in firearms or the illicit trade in diamonds. Bribery in international business transactions, for example, has been and continues to be a major concern.<sup>4</sup> That type of corruption can have a

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.

<sup>2</sup> *Ibid.*, vol. 2225, No. 39574.

<sup>3</sup> *Ibid.*, vol. 2349, No. 42146.

<sup>4</sup> See, for example, the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the United Nations Convention against Corruption; and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191, annex).



devastating effect on good governance and economic development.

13. In the absence of a universal definition of corruption, legal definitions have been limited to the definition of certain acts of corruption. For example, States parties to the United Nations Convention against Corruption are required to criminalize a number of specific acts such as bribery, illicit enrichment, abuse of function, trading in influence, embezzlement and misappropriation or other diversion of property by a public official. Corruption tends to involve the abuse of entrusted power. For a public official, it involves giving or obtaining an advantage through illegitimate means or through means inconsistent with his or her duty.

14. Beyond legal definitions, there are some cultural and historical differences in how corruption is defined and perceived in various parts of the world. Cultural differences are very relevant, especially as they relate to social status, gift-giving, family ties, reciprocity and community, and they must be acknowledged. Paying attention to those cultural variations may lead to a better understanding of how people in different cultural contexts recognize and respond to corrupt behaviour. However, such cultural differences should not be used to justify corruption. In virtually all cultures, corrupt conduct seems to be regarded as unacceptable.

15. Corruption needs to be understood in the political, economic and social context within which it occurs. For example, the level of tolerance towards corruption, irrespective of existing legislation, may vary from one context to another. Understanding why corruption is tolerated or even accepted in some contexts is equally relevant. Corruption, in some circumstances, may be a natural social reaction to institutional failure. Individuals may feel that the cost of fighting corruption is greater than the benefits that could be accrued by eradicating it. Some groups may perceive corruption as instrumental and expedient in achieving some legitimate collective or political goals. Ultimately, however, corruption can only lead to a weakening of social and political institutions. A vicious cycle is created whereby corruption undermines effective governance and ineffective governance breeds corruption.

## 2. Corruption and illicit drug markets

16. Illicit drug markets are complex and constantly changing; they also tend to be quite resilient. Drug traffickers adapt quickly in order to counter governments' efforts. Drug trafficking activities are frequently displaced when law enforcement initiatives threaten to disrupt them. A minimum level of sophistication and organization is required in order for any group to effectively exploit the illicit drug markets. That is why criminal organizations tend to dominate such markets. The most successful criminal organizations are usually those that are able to make strategic use of violence and systematic use of corruption and intimidation to weaken official controls and law enforcement. What criminal organizations cannot achieve through corruption, they achieve through violence and intimidation. That is why cities, countries or other geographical areas exposed to intensified drug trafficking activities often have a high incidence of violence and corruption.

17. Some criminal organizations focus their activities entirely on the illicit drug markets. Others have added illicit drug production and drug trafficking to their criminal activities. For them, illicit drug production and drug trafficking and related criminal activities represent sources of enormous revenue. Since criminal organizations must mitigate the risk of detection and prosecution, they use the proceeds of their illegal activities to corrupt law enforcement, justice and other officials, to obstruct justice and to enable them to operate as much as possible without interference. In many instances, criminal organizations manage to buy the protection of public officials so that they can undermine the activities of competing criminal organizations and establish a near-monopoly over illicit drug markets.

18. There is evidence suggesting that criminal groups, including youth gangs, involved in the illicit drug trade are more violent than other criminal groups. Competition among such criminal groups leads to violent confrontation and puts ordinary citizens at risk. There are also frequent violent confrontations between criminal organizations and law enforcement agencies. Intimidation and violence are routine aspects of the illicit drug trade. The inherently risky and violently competitive nature of the illicit drug trade drives those involved to seek the collusion, protection and assistance of certain public officials, whether through

bribes or through intimidation and violence. When a criminal group has secured such protection and threatens to use it to eliminate its rivals, the struggle to control the illicit market for a particular drug can become quite violent.

19. Having a share of the proceeds of drug trafficking is a strong incentive to engage in corruption. In fact, some senior law enforcement officials have argued that it is the most powerful driving force behind the corruption faced by their agencies. The huge profits generated by the illicit drug trade enable criminal organizations to engage in corruption on a very large scale. Corruption is essential to maintaining the flow of illicit drug shipments. In order to ensure that they receive the highest returns on their investment in illicit drug production and trade, most criminal organizations are constantly looking for and finding ways to obtain the complicity of key public officials.

20. Officials involved in drug law enforcement are at great risk of corruption, blackmail and intimidation. In exchange for a share of the profits obtained from drug trafficking, some officials may refrain from enforcing the law or may not enforce it thoroughly, thereby allowing criminals to operate relatively freely; and some officials may be paid to enforce the law selectively or to use it to harass the rivals of a particular criminal group.

21. In some cases, criminal organizations with thriving drug trafficking operations have become political forces of their own and have succeeded in usurping the power and authority of legitimate political institutions. Some of those criminal organizations, in collusion with corrupt political elites striving to gain some political advantage or to establish a political monopoly, have succeeded in obtaining control over large illicit markets. Such mutually reinforcing spheres of political and criminal influence eventually undermine the legitimacy of public institutions.

22. Thus, the very mechanisms and authorities established to reduce the illicit drug trade are often hindered or neutralized by corruption. In some Central American countries, for example, drug-related corruption has been detected among high-level officials, including heads of drug law enforcement agencies. In 2008, the Government of Mexico launched Operation Clean-up, aimed at purging the top ranks of the police of the influence of drug cartels. As a result, both the interim commissioner of the federal police and

the acting head of the division of drug control operations were arrested and convicted. That is an example of how Governments are capable of fighting pervasive drug-related corruption at the highest level.

### **3. How widespread is corruption**

23. Corruption is secretive; the persons affected by corruption may be unaware that they have been victimized. For that reason, the problem is extremely hard to quantify. It has been argued that it is not possible to accurately measure the prevalence of corruption, as most methods used to measure it are inherently flawed.

24. Data based on reported cases of bribery or corruption usually do not reflect the true extent of the problem. Official data on corruption are usually drawn from national crime statistics; such “objective” measures of corruption are more indicative of the relative success of anti-corruption initiatives than of the prevailing level of corruption. Official data on corruption are also affected by public confidence in the police and by the willingness to report the crime to the authorities. Finally, since official definitions of corruption tend to vary from country to country, international comparisons based on official criminal justice data are difficult to make and potentially misleading.

25. Surveys are often used to measure or estimate the prevalence of corruption based on the experiences and/or perceptions of respondents. Indicators based on the perceptions of citizens, public officials or business people are widely used and are popular with the media. Those indicators are often aggregated into composite indices, such as the annual Corruption Perceptions Index, published by Transparency International, the World Bank’s governance indicators, which also measure the ability of countries to control corruption, and the indices prepared by the World Economic Forum to identify obstacles to business. Such indices can be useful, but their findings are typically affected by methodological limitations and by the varying cultural and social environments from which they are drawn. Victimization studies, such as the International Crime Victim Survey conducted by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Interregional Crime and Justice Research Institute, focus on how respondents have experienced corruption. In recent years, the results of the

International Crime Victim Survey have led to the development of the International Crime Business Survey, focusing on respondents who have experienced corruption, fraud and extortion.

#### 4. The impact of drug-related corruption

26. The huge proceeds of the illicit drug trade are a powerful corrupting force. The consequences of corruption can be pervasive and profound. Corruption is a threat to democracy and development, working to the detriment of good governance and weakening social institutions. Drug-related corruption can have an extremely detrimental effect on the credibility and efficiency of the criminal justice system and weaken the rule of law. It can also have an adverse effect on the credibility and legitimacy of other social institutions. It fuels public distrust in both public and private sector initiatives. It can have a devastating impact on a country's economic and social development.

27. If left unchecked, low-level corruption can spread throughout social institutions. Once corruption has become systemic and institutionalized, officials find it easier to engage in various forms of extortion and protection rackets. To speak of such forms of corruption as a major crisis requiring immediate attention is hardly an exaggeration. Experience has shown how serious that danger is. There are numerous examples of the catastrophic effect of drug-related corruption on the state and its institutions. In some instances, drug-related corruption has had a damaging effect on the country's entire political system.

28. Corruption can be both a product and a cause of the failure of governance mechanisms. Corruption thrives where policies and the regulatory regime provide scope for it and where institutions for providing control are weak. Corruption can thus be seen as a direct consequence of inadequate, illegitimate or ineffective governance mechanisms and institutions at various levels. The converse is also true: corruption can sabotage those institutions and the essential governance functions they perform.

29. Countries with serious drug trafficking problems are particularly vulnerable to the machinations of organized criminal groups. The illicit drug trade can have a destabilizing effect on the national economy, the

political process and civil society.<sup>5</sup> Political corruption, patronage and clientelism create opportunities for criminal groups to establish their control over certain population groups, as well as over the political process. Drug traffickers can find ways to enter into the process by ensuring that votes are exchanged for favours. The clientelism practised by certain criminal organizations, with or without the involvement of politicians, can have a profound impact on the political life of a community. The above-mentioned challenges, which are very complex, demonstrate the need for broad initiatives to prevent drug-related corruption through community empowerment, education and institutional reform. When fighting drug-related corruption and addressing its detrimental social effects, denial and abdication cannot be tolerated. Governments clearly need to adopt strong measures to prevent and control corruption. Ironically, those Governments which have already been infiltrated and weakened by drug-related or other types of corruption are the least likely to adopt effective anti-corruption measures.

## B. Corruption and drug control

30. Just as corruption is a major impediment to social and economic development, it is also an impediment to a well-functioning justice and security sector. People are more likely to commit a criminal act if the likelihood of being caught is low and if a bribe is the best way to avoid being held accountable for a criminal act. As time goes on, corruption becomes institutionalized and systemic and can affect the entire justice system. The credibility and legitimacy of the justice system are soon affected. The effectiveness of the justice system suffers because it is no longer able to count on the public support it requires in order to perform its function effectively. From that point, corruption can eventually reach the highest levels of a government and affect its credibility, legitimacy, stability and, ultimately, its viability.

### 1. Organized crime and the corruption and intimidation of public officials

31. A fundamental characteristic of organized crime is its ability to take advantage of weak institutions and

<sup>5</sup> See *Report of the International Narcotics Control Board for 2002* (United Nations publication, Sales No. E.03.XI.1), chap. I.

its reliance on corruption and intimidation to enable it to conduct its business with as little interference as possible. Organized crime is more likely to flourish in cities, countries and other geographical areas where government control and local institutions are weak and public officials are corrupt. The extent to which criminal organizations succeed in infiltrating the public sector depends on their characteristics and activities, and on the relative strength and resilience of the public institutions. The activities of drug traffickers and other organized criminal groups are not necessarily the main cause of corruption; weak law enforcement and criminal justice institutions represent an open invitation to corruption. In extreme cases, organized criminal groups may even use corruption to control dysfunctional state agencies.

32. There is abundant evidence of the systematic use of corruption and intimidation by organized criminal groups and of the frequent collusion between criminals and corrupt officials at various levels of government. The most common type of corruption is bribery to influence the functions of government. Corrupt public officials become the puppets of criminals, who are then able to rely on their complicity.

## **2. Corruption of police, customs and other law enforcement officials**

33. There is a growing realization that police corruption is not always just an aberration. The corrupting effect of organized crime is systemic and lasting. Criminal groups have been known to enter into relatively stable arrangements with the police or other law enforcement and regulatory agencies. Those arrangements may involve non-enforcement or selective enforcement of the law by an official who, in exchange for a share of the proceeds derived from illicit activities, allows a criminal group to obtain or consolidate control over an illicit market. Law enforcement authorities may carry out raids against insignificant illegal operations or against a competing criminal group. In some instances, violence erupts between criminal groups wishing to have access to or influence over corrupt officials who control certain areas (such as a landing strip or a border control station). Criminal groups may, out of fear of being betrayed, target the officials they have bribed.

34. Police, customs and other agencies involved in drug law enforcement are particularly exposed to

corruption. Several official reports, for example, in Australia, the Bahamas and the United States of America,<sup>6</sup> have acknowledged the fact that the illicit drug trade has left law enforcement and customs agencies highly vulnerable to drug-related corruption. Drug control units are particularly vulnerable to corruption because of both the large sums of money and quantities of drugs involved in their work and the willingness of criminals to pay bribes to avoid trouble. The frequent contact that members of specialized drug law enforcement units have with drug abusers and illicit drug suppliers multiply the opportunities for corruption and heighten the risk of misconduct. Officers working in drug control units are more exposed to corruption than others; they are also aggressively recruited by criminal groups. Drug control units are often at risk of being infiltrated by organized criminal groups involved in drug trafficking. Law enforcement officers working on drug trafficking cases are particularly prone to corruption because their work entails the use of informants, undercover investigations and investigative techniques such as controlled delivery. Furthermore, police and police recruits may believe that corruption is justifiable and acceptable in certain circumstances, a misperception that is sometimes reinforced by the local police subculture.

35. There have been frequent reports of drug-related corruption involving police officers who were engaged in serious criminal activities such as stealing money and/or drugs from drug dealers, conducting illegal searches to appropriate drugs or drug money, selling stolen drugs, protecting drug trafficking operations, providing false testimony or submitting false crime reports.<sup>7</sup> There have been reports in many countries of

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<sup>6</sup> Bahamas, *Report of the Commission of Inquiry, Appointed to Inquire into the Illegal Use of the Bahamas for the Transshipment of Dangerous Drugs Destined for the United States of America, November 1983-December 1984* (Nassau, Commission of Inquiry, 1984); United States of America, General Accounting Office, *Law Enforcement: Information on Drug-Related Police Corruption*, GAO report GAO/GGD-98-111 (Washington, D.C., May 1998); *The Knapp Commission Report on Police Corruption* (New York, George Braziller, 1973); and Australia, New South Wales, *Project Odin: Identifying and Managing High Risk Officers in the NSW Police Force* (Sydney, Police Integrity Commission, September 2009).

<sup>7</sup> *Law Enforcement: Information on Drug-Related Police Corruption ...* (see footnote 6).

rogue police officers being actively engaged in trafficking in drugs in some cases drugs that had been confiscated, or guarding illicit crop cultivation sites for a criminal organization.

36. There have also been reports of drugs being diverted in large quantities from licit distribution channels to be sold on illicit markets as a result of officials abusing their authority, thereby defeating the purposes of regulatory agencies and drug control mechanisms.

37. As it relates to the illicit drug trade, police corruption frequently takes the form of a bribe: a “tax” or “rent” secretly levied on illicit profits. As drug law enforcement efforts intensify, so does the capacity of the police (and other criminal justice officials) to levy a “tax” on the profits of the illicit drug trade. In some instances, that practice has led to open competition and even violent conflict between corrupt police officers to determine who collects the bribes. Well-established drug trafficking organizations may find that such a system works in their favour, as they are able to pay the bribes and redirect the attention of the police and prosecutors towards more poorly “connected” criminal groups. Corruption can help a criminal group establish tight control over a particular licit or illicit market by enlisting the authorities’ help to drive out or weaken the competition.

38. Police corruption hinders international cooperation in criminal matters and in drug control. There are many obstacles to effective law enforcement cooperation at the international level. Sovereignty issues, absence of enabling legislation, poor channels of communication and diversity of law enforcement structures have been identified as some of the challenges that must be faced in that area. International cooperation in fighting organized crime and drug trafficking is facilitated by various legal instruments and institutional arrangements. Ultimately, however, international cooperation is based on relationships of trust and reciprocity among law enforcement agencies and officials. Those relationships can be seriously compromised by corruption or even the mere suspicion of corruption. Corruption undermines international coordination efforts and condemns some of the best international drug control initiatives to failure.

39. The success of strategic approaches to fighting drug trafficking, whether at the local, regional or international levels, always depends on the capacity

and willingness of the officials in the various agencies involved to cooperate with each other. That capacity can be seriously reduced by corruption and the level of distrust it generates among those involved. When corrupt police officers or prosecutors have access to critical information or evidence received from another jurisdiction about an ongoing investigation, that investigation is compromised. As a result, some of the witnesses, informants and agents involved in that investigation may also be compromised, threatened or even killed. Some of the police and criminal justice officials involved may face betrayal, intimidation and retaliation. Thus, corruption may render joint police operations or cross-border investigations useless. International cooperation in the areas of intelligence-sharing and witness protection may also be precluded by police corruption.

40. Police corruption is difficult to control, but it should be clear to all those concerned that no amount of corruption should ever be tolerated within a police, customs or drug control unit. Temporary repressive measures are usually insufficient to address the problem. Their impact tends to be limited and short-lived. Broader anti-corruption strategies are necessary, including measures focusing on the prevention of corruption and periodic checks. Independent police oversight mechanisms, proactive internal investigations and the creation of special anti-corruption units must be part of any comprehensive strategy to identify and eradicate corruption as soon as it emerges.

41. In addition to front-line police, customs and other law enforcement officers, other security officers may be targeted by criminal organizations. For example, security and other personnel working at international airports and other border control points are also vulnerable to attempts to infiltrate or corrupt them. In Canada, a strategic assessment conducted by the Royal Canadian Mounted Police revealed that organized criminal groups had attempted to exploit airports by corrupting employees or by placing criminal associates in the airport workforce.<sup>8</sup>

42. Regulatory agencies are also exposed to drug-related corruption. For instance, because criminal

<sup>8</sup> Royal Canadian Mounted Police, *Project SPAWN: A Strategic Assessment of Criminal Activity and Organized Crime Infiltration at Canada's Class 1 Airports* (Ottawa, 2008).

organizations must hide the proceeds of their illicit activities, they often need to collaborate with regulators, people in financial institutions and other professionals to launder those proceeds. That collaboration, obtained through intimidation or corruption, is used to defeat the efforts of police and other law enforcement agencies to trace, freeze, seize and/or confiscate those assets.

### **3. Military corruption**

43. In several countries, police corruption has resulted in pressure being generated to involve the military in drug control, illicit crop eradication and border control efforts. That, in turn, has sometimes resulted in the problem of drug-related corruption spreading to the military and, in some cases, has affected the integrity, credibility and legitimacy of the military institutions involved. In some cases, in order to limit the devastating effects of corruption, a decision has had to be made to withdraw the military personnel that had been stationed in illicit drug production areas or assigned to pursue drug traffickers. In other cases, the population saw the police and the military accuse each other of corruption (or even attacking each other) and the credibility of both institutions suffered greatly.

### **4. Judicial corruption**

44. The judiciary is equally at risk of drug-related corruption and intimidation. Because of the influence they have over the entire criminal justice process, judges and prosecutors are often targeted by criminal groups. The authority that judges and prosecutors have to initiate and terminate criminal investigations makes them extremely vulnerable to corruption and intimidation. Many members of the judiciary fall victim to intimidation, retaliation and violence. Others become corrupt. Once compromised, those officials are outside of the normal protection of the law and are unable to resist the pressure exerted by criminal organizations.

45. Once members of the judiciary or the prosecutorial services are compromised, they are unable to effectively perform their function of overseeing the rest of the criminal justice system. Unfortunately, existing judicial oversight and control mechanisms are not always sufficient to prevent or repress corruption. Protecting the independence of the judiciary is an important means of protecting it against

corruption, but it must also be supported by other effective action against judicial corruption. Preventive measures should include the elaboration of codes of professional conduct for members of the judiciary, as well as educational and training activities. Mechanisms should be put in place for ensuring that judges report and seek support in cases of intimidation. In some countries, it is difficult to enforce sanctions against judges convicted of corruption. Therefore, Governments should ensure that legislation enables sanctions to be enforced where appropriate.

46. Judges obviously have an important role to play in the fight against corruption. In some legal systems, they often play a direct role in the investigation and prosecution of corruption. Lack of resources, the complexity of the cases involved, the failing support of the police, the destruction of evidence, violence, intimidation, insufficient protection and political interference can all hinder effective action against corruption.

### **5. Drug-related corruption in countries with weakened controls or in post-conflict situations**

47. Drug-related organized crime is becoming a major threat to peace and security. Countries in post-conflict situations and countries with economies in transition are particularly vulnerable to that threat. War, civil conflict, insurgency and natural disaster can all put tremendous pressure on justice and public safety institutions. The social control vacuum resulting from such situations often leads to violence, instability and corruption. The rapid social change and the weakened and disoriented law enforcement and justice institutions that tend to characterize those situations provide an environment in which organized criminal groups thrive and the illicit drug trade and corruption flourish. Drug-related corruption and organized crime can cause immeasurable harm to the social, political and economic development of countries in which such conditions prevail. Drug trafficking and the violence and corruption associated with it usually have a destabilizing effect on post-conflict societies and a devastating impact on their peacebuilding and reconstruction efforts. The proceeds of drug trafficking are all too frequently used in such situations to support insurgencies, supply weapons, destabilize Governments, undermine the democratic process or neutralize law enforcement and criminal justice institutions.

48. In Afghanistan, for instance, drug trafficking accelerated the development of organized crime and has been a massive source of corruption. Drug trafficking and corruption are major obstacles to peacekeeping, peacebuilding and reconstruction efforts. A recent UNODC report entitled *Corruption in Afghanistan: Bribery as Reported by the Victims* has revealed that drug trafficking and corruption are the two largest income generators in Afghanistan. Together they account for half of the gross domestic product of Afghanistan. The report highlights how corruption has eroded the trust in public officials and the Government as a whole and how it is one of the most significant factors undermining peacebuilding in that country.

49. Many countries with economies in transition have experienced a rapid proliferation of organized crime and drug trafficking. In the Balkans, for example, organized criminal groups have become firmly established. In Senegal, the police have reported that trafficking in cannabis in the Casamance region has benefited from low-intensity conflict.<sup>9</sup> In Sierra Leone, the police reported that members of the Armed Forces Revolutionary Council, which had controlled the country in the period 1997-1998, were responsible for establishing Sierra Leone as a transit area for illicit drug shipments. In South-Eastern Europe where, according to a recent UNODC report, drug trafficking is the criminal activity with the highest value, drug-related corruption is a significant problem that has a direct effect on criminal justice institutions.<sup>10</sup>

50. Since the late 1980s, coups and wars in West Africa have resulted in a blurring of the relationship between politics and crime in that subregion, not to mention general uncertainty surrounding wealth and the manner of its acquisition. That has provided fertile ground for corruption and has exacerbated the problem of organized crime in that subregion.<sup>11</sup> According to a UNODC report,<sup>12</sup> cocaine and other drugs illicitly

manufactured in South America are increasingly being smuggled through West Africa on their way to the growing illicit markets in Europe. West Africa, a subregion recovering from several violent civil conflicts, is affected to such a great extent by drug trafficking mainly because of the ability of traffickers to operate with impunity. One of the greatest vulnerabilities of West Africa is its under-resourced criminal justice agencies, which are extremely susceptible to corruption. According to the UNODC report, international drug traffickers operating in West Africa, when arrested, are seldom convicted and sentenced.

## C. Combating drug-related corruption

### 1. Tackling organized crime

51. Dismantling the criminal organizations involved in drug trafficking or, at the very least, disrupting their activities is a prerequisite for successful drug control strategies. Organized crime presents many unique and pressing challenges to criminal justice systems throughout the world. The rapid globalization of criminal networks adds to those challenges by testing the will and capacity of national agencies and institutions to work with each other to curtail the international activities of powerful criminal groups. Criminal organizations are good at exploiting the weaknesses of drug control agencies and other law enforcement agencies. They are also able to quickly adjust to new drug control and law enforcement tactics and approaches. Often the most that can be achieved is the short-term disruption of the activities of criminal organizations, leaving more or less intact their capacity to further engage in drug trafficking.

52. There are some obvious difficulties involved in fighting organized crime. Organized criminal groups usually have enormous resources at their disposal and have access to sophisticated technologies to support their activities. Organized criminal groups are difficult to infiltrate and they go to great lengths to protect themselves against defectors, informants and police agents. They do not hesitate to use violence. Because of the dynamic nature of the criminal activities involved, particularly drug trafficking activities, law enforcement and criminal justice institutions must constantly refine, redefine and perfect their own strategies. When possible, modern techniques of

<sup>9</sup> *Transnational Organized Crime in the West African Region* (United Nations publication, Sales No. E.05.XI.1), p. 8.

<sup>10</sup> *Crime and Its Impact on the Balkans and Affected Countries*, published by the United Nations Office on Drugs and Crime in March 2008, pp. 12-13.

<sup>11</sup> *Transnational Organized Crime in the West African Region*, p. 7.

<sup>12</sup> *Drug Trafficking as a Security Threat in West Africa*, published by the United Nations Office on Drugs and Crime in November 2008.

investigation, such as controlled delivery, electronic surveillance or infiltration must be utilized. Law enforcement and criminal justice institutions must develop a capacity for international cooperation and be able to work effectively with their counterparts in other countries.

53. It is also important to emphasize the importance of efforts to address money-laundering and to trace and seize the proceeds of the illicit drug trade, corruption and other types of crime. The regime for countering money-laundering is based on a number of standards and international instruments that are intended to ensure that there are no safe havens for criminals. Some of those key instruments are the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the United Nations Convention against Transnational Organized Crime, the United Nations Convention against Corruption and the recommendations of the Financial Action Task Force on Money Laundering. The regime for countering money-laundering makes it possible to disrupt criminal organizations and seize the proceeds of their illegal activities.

## **2. Implementing necessary preventive measures**

54. There are several measures that can be taken to prevent drug-related corruption. Many are the same as those that can be taken to fight corruption in general. They include measures to prevent, detect and investigate incidents of corruption. In the law enforcement and justice sectors, they include measures to develop and strengthen multiple accountability structures, internal investigation mechanisms and disciplinary processes. The most important measures to prevent drug-related corruption are found in the United Nations Convention against Corruption.

55. Deterring drug-related corruption through investigations, prosecutions and serious sanctions is a fundamental element of any comprehensive strategy to address the problem. It is, however, only one part of such a strategy. Emphasis must also be placed on education and prevention because, in the long run, they have more far-reaching benefits in terms of promoting the integrity of public institutions and managing the conduct of public officials. The Convention against Corruption allows for the establishment of independent bodies, with formal legislative authority, that can promote good practices in preventing corruption.

The Convention also suggests that there should be periodic evaluations of relevant legal instruments and administrative measures to determine their effectiveness in preventing corruption.

56. The prevention of corruption requires all public agencies to have in place some efficient, transparent and objective systems for the recruitment, hiring, retention, promotion and retirement of public officials. Those systems must also recognize that certain persons or agencies, such as those involved in drug law enforcement and drug control activities, may be more susceptible to corruption than others. The specific vulnerabilities of those persons and agencies must be identified and analysed. The specific risks in those areas of work need to be identified and addressed by concrete measures, and those measures need to be evaluated and revised periodically. Some of the risks may be addressed by measures such as the following: pre-appointment screening of successful candidates for the post or for special assignments involving drug control activities; rotation of staff; and benchmarking the performance of individuals and teams.

57. All agencies involved in drug control activities should ensure that they have in place specific support and oversight procedures for all their staff, in particular for those who are directly exposed to corruption. Those agencies, because of their vulnerability to corruption, should all have in place procedures such as: regular appraisals; disclosure of conflicts of interest, incompatibilities and associated activities; and the declaration and registration of assets, interests and gifts, as well as adequate procedures for monitoring the accuracy of those declarations. Procedures to allow for confidential reporting of suspicious transactions and incidents ought to be put in place, together with provisions for effective investigation of those reports by internal affairs departments or independent oversight mechanisms.

58. Whenever the existing process and procedures provide a level of discretionary authority for certain officials, effective measures to monitor and review the use of that authority must be instituted. Depending on the level of risk of corruption, systems providing multiple levels of review and approval for certain decisions are always preferable to having a single individual with the sole authority to make those decisions. Encouraging transparency and accountability with respect to the decisions made at all



levels is one of the most effective ways of preventing corruption. The operational requirement for secrecy to protect the integrity of drug control investigations and protect the officials involved must not serve as a means to avoid operational and public accountability.

59. Preventing the laundering of the proceeds of corruption is an important prevention method. Attempts to trace and seize the profits of drug dealers have led to the creation of sophisticated international mechanisms to prevent and counter money-laundering and deprive drug traffickers of the proceeds of their illegal activities. Those mechanisms can also be used to prevent corrupt officials from laundering their illegally obtained wealth. Measures to counter money-laundering rely in part on the vigilance and collaboration of financial institutions and their employees and other professionals (accountants, investors, lawyers). They, too, must be protected against corruption.

60. Addressing corruption and intimidation of the judiciary is a priority of an effective anti-corruption strategy. When members of the judiciary are compromised, the legal and institutional mechanisms designed to curb corruption are neutralized. In order to prevent such corruption, codes of conduct for the judiciary, effective oversight mechanisms and strong disciplinary measures can be put into place without affecting the independence of the judiciary. The Bangalore Principles of Judicial Conduct<sup>13</sup> reaffirm the notion that judges must be accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct that bind judges. The Principles reaffirm the fact that integrity is essential to the proper discharge of the judicial office and that judges must ensure that their conduct is above reproach.

61. The work for which judges and prosecutors are responsible must be protected against the risk of corruption and intimidation by ensuring that the judicial process is open and accessible. Judicial proceedings should be open to the public, judges must be required to provide reasons for their decisions and those decisions must be recorded and accessible to the

public through the media. Judges and court administrators have a responsibility to prevent corruption by ensuring the effective and accountable administration of court proceedings, including systems to maintain and manage court records, procedures for reducing court delays, registries of decisions and procedures to respond to public complaints. Measures must be in place to prevent the destruction or theft of evidence and exhibits and the disappearance or destruction of court records.

62. Prosecutors have a special role to play in preventing corruption. They must be able to perform their professional functions without intimidation, hindrance, harassment, political interference or unjustified personal exposure to liability. They must be held accountable for their decisions and should be able to explain them in a frank and transparent manner. Where disciplinary steps are necessary, they should only be taken after an expeditious and fair hearing has taken place. Prosecutors, like judges, must be well protected: their personal safety and that of their families should never be threatened as a result of them carrying out their professional responsibilities.

63. There are several approaches to preventing corruption among the police and customs. In law enforcement, preventing corruption involves taking decisive action in a number of areas, including: (a) recruitment, training and promotion; (b) provision of adequate resources; (c) correcting faulty compensation, reward and incentive structures within the organization; (d) strengthening the existing governance and accountability structures within and outside the organization; (e) increasing transparency; (f) changing attitudes and traditions within the organization that inhibit the development of professional and ethical police standards; and (g) countering any internal subculture that may perpetuate the acceptance of corruption.

64. Preventing and reducing corruption within the customs administration are also particularly relevant to the prevention of drug trafficking. Customs administrations are very vulnerable to corruption. A decision by a customs official to knowingly accept a fraudulent declaration can compromise the achievements representing months of work in a drug control operation. Considerable attention must be given to the recruitment, training and monitoring of customs staff and supervisory personnel. The development of

<sup>13</sup> E/CN.4/2003/65, annex; see also Economic and Social Council resolution 2006/23, annex.

strategies to counter corruption among customs officers involves determining the specific risks of corrupt behaviour at the various stages of the customs clearance process and, if appropriate, the developments of a “risk map” outlining the extent to which various elements of the existing process facilitate potential violations and create opportunities for corruption. The World Customs Organization has identified a number of areas to be focused on in efforts to prevent corruption in customs operations: leadership and commitment; regulatory framework; transparency; automation; reform and modernization; audit and investigation; code of conduct; human resource management; and morale and organization culture.<sup>14</sup>

65. Integrated approaches are therefore needed to effectively address the factors that facilitate corruption within law enforcement agencies. The main elements of a comprehensive corruption prevention plan include improved recruiting and training practices, adequate remuneration, adequate policies, procedures, supervision, and administrative control to detect and respond to the problems of drug abuse and corruption among law enforcement officers. Responsible and accountable management and supervision are essential to the success of those approaches. Police managers must be inculcated with a sense of responsibility and be held accountable for the integrity of their staff. Organizational reforms must be introduced to ensure internal accountability and effective supervision, and to change procedures and practices that are conducive to corruption. Finally, corruption cannot be completely rooted out without having in place effective measures to detect, investigate and punish corruption. For that, an independent internal investigative unit is required, functioning as it should under an independent civilian oversight mechanism.

66. Detecting corruption within a law enforcement agency may present some challenges. The detection of corruption may rely in part on reports from citizens or from law enforcement officers, but reports alone are usually insufficient. The agency may also rely on integrity testing, an early warning system to detect officers who may be prone to corruption, and the

proactive investigation of individual officers involved in squads or areas with a high number of corruption-related complaints. The identification of officers at risk of corruption or misconduct is an important part of effective detection and investigation. Some areas of policing, in particular drug law enforcement, require special attention: they are at greater risk of corruption because they tend to be characterized by a large degree of secrecy and little managerial, administrative or civilian oversight. Corruption resistance and prevention plans can be developed once a proper risk assessment has been conducted and the risks of misconduct and the officers at risk have been identified.<sup>15</sup>

67. Measures to protect against unjustified treatment those persons who report in good faith an alleged incident of corruption are essential to efforts to combat and prevent corruption at all levels. Such measures must strike a balance between the need to protect the rights of the person who is the object of the allegation and the need to protect the person making the allegation. Because false accusations of corruption may be used to discredit officials and neutralize their efforts to combat crime, such measures must also offer some protection against false accusation. There is also a need to protect witnesses, experts and victims who give information or testimony in cases involving corruption. Intimidation can take many forms and a variety of measures are usually necessary to protect those at risk. Measures should be designed to provide physical protection for witnesses who might be in danger and evidentiary rules should be adopted to allow them to provide testimony in a manner that ensures their safety. It is important to have in place comprehensive witness protection programmes to protect those who collaborate with the justice system in the investigation and prosecution of cases involving corruption.

## D. Recommendations

68. Efforts to curtail the illicit drug trade must be better coordinated and aligned with broader strategies to control organized crime and to limit the damaging effects of drug-related corruption. To ensure more effective implementation of the international drug

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<sup>14</sup> World Customs Organization, Revised Arusha Declaration: Declaration of the Customs Cooperation Council concerning Good Governance and Integrity in Customs, 2003; see also World Customs Organization, *Integrity Development Guide* (2007).

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<sup>15</sup> See, for example: *Project Odin: Identifying and Managing High Risk Officers in the NSW Police Force* (see footnote 6).

control conventions, the Board recommends the following:

(a) Governments must give greater attention to initiatives to prevent corruption, particularly those initiatives relating to public agencies and officials actively engaged, at all levels, in the enforcement of drug control laws. Those officials are particularly vulnerable to the threat of corruption and must be protected against it. Corruption resistance and prevention plans can be developed once a proper risk assessment has been conducted and the risks of misconduct and corruption have been identified;

(b) Governments must give priority to strategies aimed at preventing corruption and raising public awareness about corruption, building on the strengths and values that are unique to each cultural context;

(c) Governments must give priority to preventing corruption and intimidation, in particular among the judiciary. A corrupt judiciary is as serious an impediment to the success of anti-corruption measures as it is to the success of drug control strategies;

(d) All law enforcement and criminal justice agencies involved in drug control or in the fight against organized crime should formally adopt and enforce within their agencies a policy of absolute intolerance towards corruption;

(e) Law enforcement and criminal justice agencies involved in drug control should adopt, as a matter of priority, concrete measures to prevent drug-related and other forms of corruption and misconduct within their ranks. Such measures may include: promoting incorruptible and transparent recruitment, training, deployment and supervision practices; integrity-testing; strengthened internal investigation mechanisms; independent civilian oversight; effective prosecution; and greater protection for informants (“whistle-blowers”) and witnesses;

(f) All agencies involved in drug control activities should prevent corruption by ensuring that

they have in place specific support and oversight procedures for all their staff, in particular for those who are directly exposed to corruption. Those agencies, because they are particularly vulnerable to corruption, should all have in place prevention procedures such as: regular appraisals; disclosure of conflicts of interest, incompatibilities and associated activities; and declaration and registration of assets, interests and gifts, as well as adequate procedures for monitoring the accuracy of those declarations. Procedures should be in place to allow for confidential reporting of suspicious transactions and incidents, with provisions for effective investigation of those reports by internal affairs departments, inspectorates or independent civilian oversight mechanisms;

(g) There must be renewed efforts, at the national and international levels, to further strengthen measures to counter money-laundering and ensure that they focus on the identification and confiscation of the proceeds of drug-related corruption, as well as other types of drug-related crime;

(h) International and regional cooperation and the capacity of the relevant law enforcement and criminal justice agencies to cooperate with each other must continue to be strengthened, particularly as they relate to the prevention and eradication of drug-related corruption and intimidation;

(i) States that have not already done so are encouraged to ratify and implement the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption (see annex III), thereby enabling those conventions to realize their full potential in fighting drug-related crime, particularly at the international level;

(j) The international community should provide assistance to States that are struggling to cope with drug-related corruption and intimidation and require technical and other assistance in order to build their capacity to combat drug-related corruption.

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