

IAJ Third Study Commission Report – Cape Town, South Africa, October 2024

This year, we discussed the rapid evolution of drug manufacturing and the challenges this process presents for prosecutions. The focus was on the control and regulation of precursor chemicals and starting materials.

We heard a thorough presentation from Antonio Mazzitelli and his team, on behalf of the International Narcotics Control Board, Precursors Control Section, UNODC.

Conclusions:

1. There are serious gaps that need to be addressed. For example, there are chemicals that are used to manufacture drugs for illicit use that are not under any form of international control.
2. Drug manufacturing processes change so rapidly that legislation to regulate and control precursors cannot keep up.
3. The difficulties facing law enforcement with regard to precursors may be exacerbated by the fact that the regulation and control of certain substances falls to government agencies that are separate and apart from prosecutors, police, and justice officials, such as ministries of health.
4. Cross-border transportation and delivery of precursors is a major problem that requires more consistency in the laws and more cooperation among authorities worldwide.
5. Prosecution of offenders is challenging because of the need to prove intent to use the chemical or starting material for an illicit purpose. Of course, having recognized that, we must also be very careful about encouraging anything that derogates from the presumption of innocence of accused persons and the burden of proof that rests with the prosecution.
6. The INCB has many tools at its disposal to try to deal with the challenges that are inherent in the control and regulation of precursors, such as an intelligence-sharing electronic tool.

7. Greater international cooperation, more education, and the raising of general awareness are key to dealing with these problems in the future.

8. The legislation in the member countries that responded to the Questionnaire is quite similar in that it allows the authorities in most countries to react within a reasonable period of time in terms of new drugs that are to be controlled or regulated.

Our topics for next year are:

- (i) therapeutic justice, including drug treatment courts, sentencing circles, and restorative justice; and
- (ii) the balance between expanded police investigative powers and privacy interests and constitutional rights.

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