

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

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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)

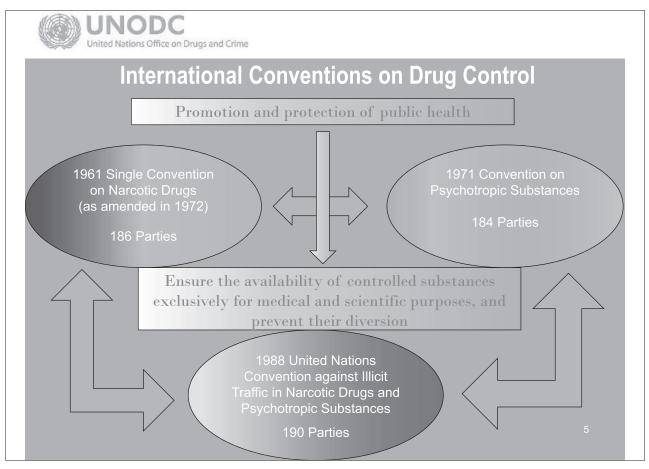
1925: Second International Opium Convention

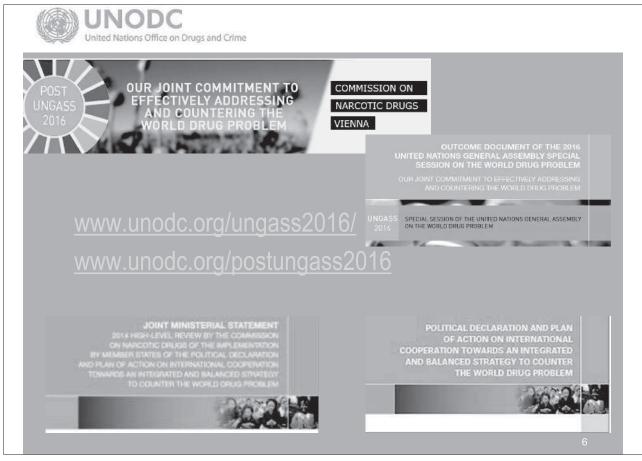
Cannabis under control; statistical control system, import certificates and export authorizations: Permanent Central Narcotics Board (now INCB)

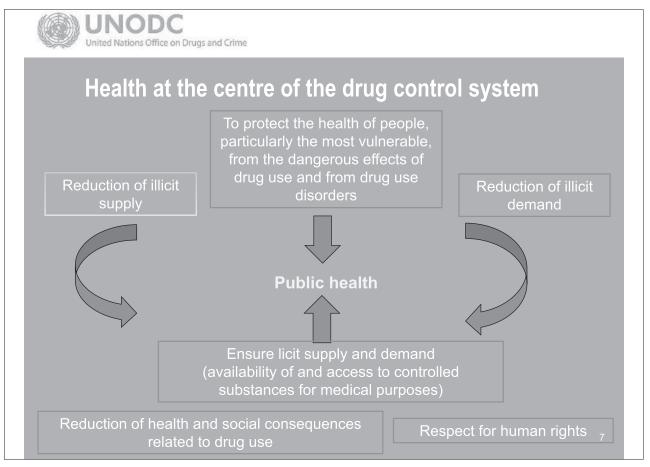
1931: Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs

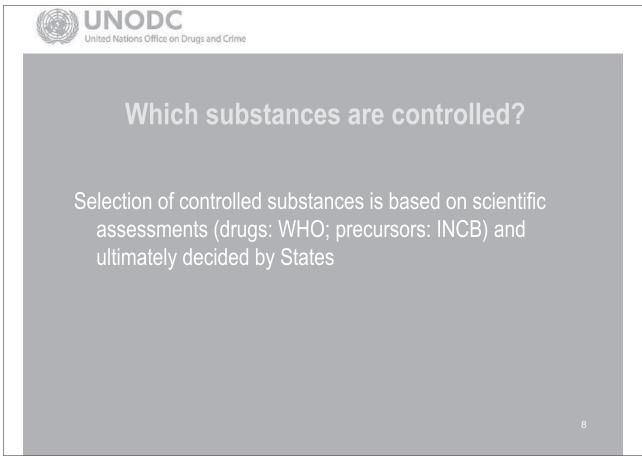
Creation of the Drug Supervisory Body

1936: Convention for the Suppression of the Illicit Traffic in Dangerous Drugs











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"
- •<u>Serious crime</u>- 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.

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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

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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



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)

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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...prohibitionthe most suitable measure in its opinion, for protecting public health and welfare and preventing...diversion". (1961 C´n)



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)
 - manufacture/ distribution (1961, 1971, 1988 C´n)
 - import and export (1961, 1971, 1988 C´n)
 - supply by health care professionals (1961, 1971 C´n) 23



Main Mandatory Requirements

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

- Establish and maintain forward estimates and *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, ≈ 1971 C´n)
- Establish and maintain the compliance inspection of regulated persons and enterprises (1961, 1971, 1988 C´n)



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)

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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)



International Justice Sector Cooperation

- Provide international legal cooperation to other Parties in their serious drug-related casework:
 - extradition (1961, 1971, 1988 C´n)
 - 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)

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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

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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.

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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

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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

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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

http://www.unodc.org/documents/legaltools/Tip electronic evidence final Eng logo.pdf

- 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

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CRIMJUST Programme Overview

Strengthening criminal investigation and criminal justice cooperation along the cocaine route in Latin America, the Caribbean and West Africa (2016-2020)



Implementing Partners:

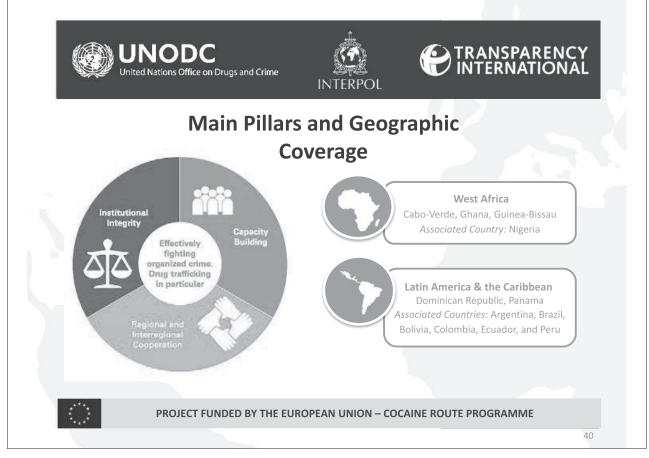


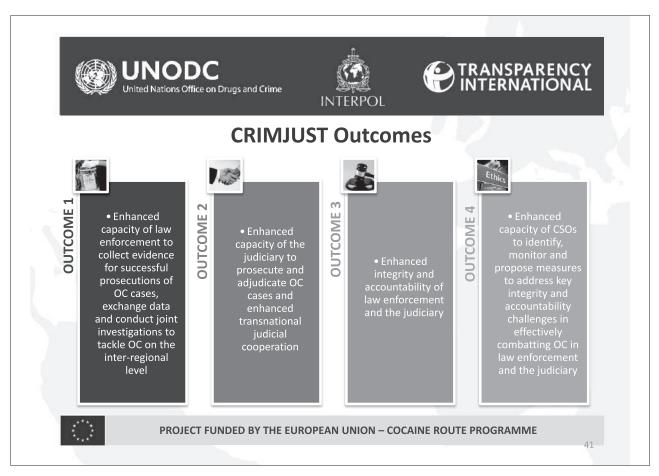


COCAINE ROUTE PROGRAMME

CRIMJUST











What is CCP?



Joint UNODC / WCO initiative launched in 2004

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

UNODC United Nations Office on Drugs and Crime





OBJECTIVE : Risk based

- · Selection
- Inspection
- Detection

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

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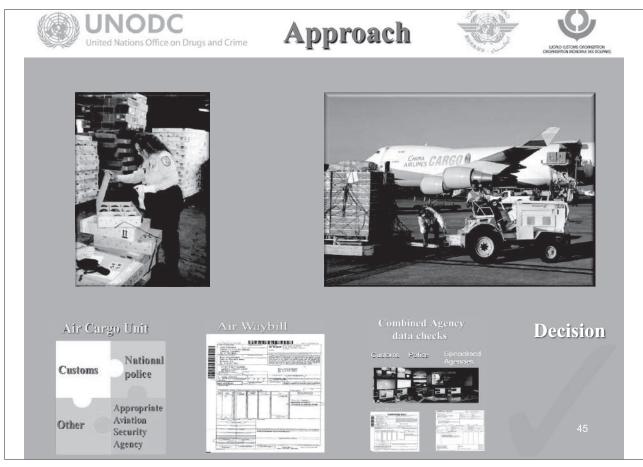


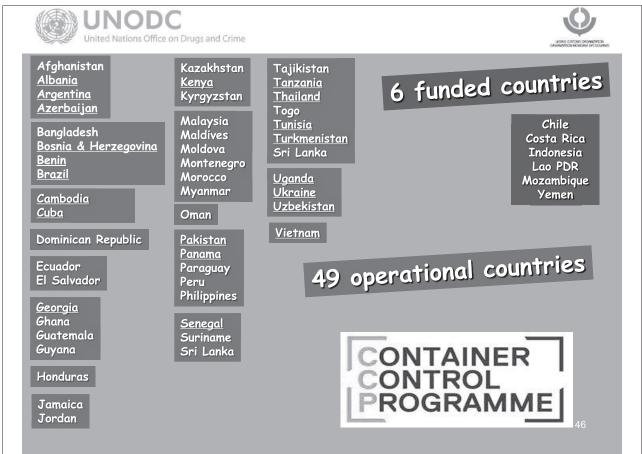
90 % of world trade transported by sea

650 million TEU movements per annum

Less than 2 % of containers are verified through physical examination







169TH INTERNATIONAL TRAINING COURSE



http://www.drugcontrolrepository.unodc.org





The Drug Control Repository is an information management portal aimed at facilitating the dissemination of information regarding the implementation of the International Drug Control Conventions namely the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1968.



Database of Legislation on Drug Control

Electronic database of national laws and regulations enacted to implement the international drug control conventions, searchable by country and topic.

**** Please note that the migration of resources and upload of most recent laws is currently ongoing. ****



CNA Directory under the International Drug Control Treaties

Directory of competent national authorities responsible for

- . Issuing certificates and authorizations for the import and export of narcotic drugs and psychotropic substances in accordance with the provisions of article 18 of the Single Convention on Narcotic Drugs of 1961 and article 16 of the Convention on Psychotropic Substances of 1971:
- regulating or enforcing national controls over precursors and
 essential chemicals in accordance with the provisions of article 12
 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988



Legal Provisions on Drug-related Offences

National legal provisions on drug-related offences, enacted to implement the international drug control conventions, as part of the database of legislation "Sharing Electronic Resources and Laws on Crime" (SHERLOC).



CNA Directory for International Cooperation

Directory of competent national authorities - and related information designated in accordance with and to facilitate implementation of the following provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988:

- Article 6 (extradition);
- Article 7 (mutual legal assistance);
 Article 17 (illicit traffic by sea).



Other Resources

Additional information relevant to drug control, namely



Treaty Adherence

Status of adherence to the international international drug control







SHARING ELECTRONIC RESOURCES AND LAWS ON CRIME

The SHERLOC portal is an initiative to facilitate the dissemination of information regarding the implementation of the UN Convention against Transnational Organized Crime and



Case Law Database

A comprehensive case law database that allows you to see how Member States are tackling organized crime cases in their courts.



Database of Legislation

An electronic repository of laws relevant to the requirements of the Organized Crime Convention and the Protocols thereto. Most of the legislation included in this database has been enacted specifically to counter the relevant crime type



CNA Directory

Directory of competent national authorities that have been designated to receive, respond and process requests pertaining to mutual legal assistance, extradition and transfer of sentenced prisoners, smuggling of migrants, trafficking in firearms and trafficking in cultural property



Bibliographic Database

An annotated bibliography providing synopses of key articles on organized crime, search-able by countries, research methods and



The main purpose of the legislative guide contained in the present publication is to assist States seeking to ratify or implement the United Nations Convention against Transnational Organized Crime. (English



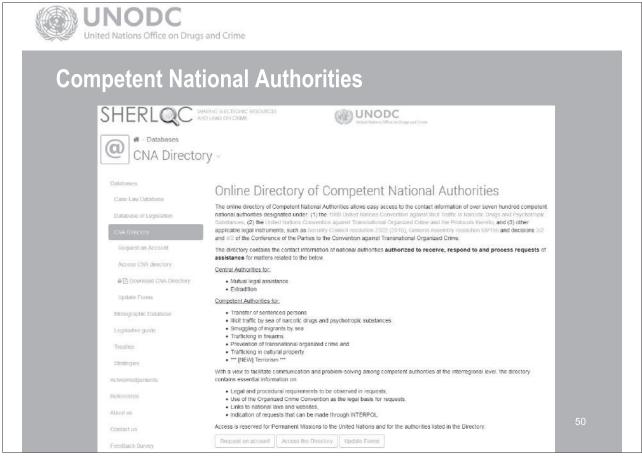
A database containing the ratification status of the Organised Crime Convention and the Protocols thereto and other relevant legal



Strategies

A database containing strategic instruments on the regional and domestic implementation of the Organised Crime Convention and the Protocols thereto.







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