CHEMICAL CONTROLS

Summary

The moving targets of chemical control—traffickers developing strategies to circumvent control measures, and changes in drug usage patterns requiring greater emphasis on different chemicals—remain constant challenges to chemical regulatory and law enforcement authorities. Traffickers have continued to shift their procurement of the key cocaine and heroin chemicals, potassium permanganate and acetic anhydride, to countries not participating in Operations Purple and Topaz, the multilateral tracking operations designed to prevent diversion of these chemicals. The steady increase in synthetic drug abuse, combined with the small quantities of chemicals required for their manufacture and the many locations where it occurs, require a different approach from that for cocaine and heroin chemicals. The international community is responding by urging expanded participation in Operations Purple and Topaz, and moving forward with the implementation of Project Prism, the multilateral initiative to control the chemicals and equipment necessary for synthetic drug manufacture.

Background

Chemicals are essential to the manufacture of narcotic drugs, either for the processing of coca and opium into cocaine and heroin respectively, or as an integral component in the case of synthetic drugs. Only marijuana, of all the major illicit drugs of abuse, is available as a natural, harvested product.

Chemical diversion control is a proactive and straightforward strategy to deny traffickers the chemicals they must have. It involves the regulation of licit commerce in the chemicals most necessary for drug manufacture to ensure that transactions are permitted to proceed only after the legitimate end-uses of the chemicals involved have been established. This requires verifying that both the chemicals and the quantities ordered are appropriate for the needs of the buyer. Chemical control is a cost-effective strategy to prevent the manufacture of illicit drugs through the regulation of licit chemical commerce.

Chemical control, as a strategy to prevent a crime, requires the examination of proposed commercial chemical transactions, the bulk of which are legitimate, to identify and stop those liable to diversion to illicit drug manufacture. Chemical producers and traders must provide transaction details to their national authorities. In the case of export transactions, at least a portion of this information must be shared with importing governments so they can ascertain the legitimacy of the proposed end-uses of the chemicals. When transactions are denied, this information must be shared with third countries to prevent traffickers from turning to alternative chemical source countries. To avoid hindering legitimate commerce, the information exchange and the decision-making must be rapid.

Governments approach chemical control from different perspectives. Some consider it a health issue to be handled by health ministries, with a primary interest in protecting public health. Others consider it a trade issue to be handled by trade ministries/agencies with a bias towards promoting, not regulating trade. If these ministries do not allow sufficient scope for regulatory and law enforcement measures in support of chemical control, they may unwittingly undermine this effective counternarcotics strategy. Trade ministries can also reinforce the reluctance of companies to provide information that needs to be shared with other governments for fear that it will reach competitors. This concern is unfounded. There is no evidence that the multilateral chemical information exchange now occurring is being abused by governments or firms to gain competitive advantage.

The U.S. has found a combination of regulation and law enforcement to be the most effective approach to chemical control. The regulatory component controls commerce in chemicals subject to diversion, authorizing legitimate transactions and identifying diversion attempts. The law enforcement

component provides the capability to apprehend criminals seeking to divert chemicals, and to track back cases of successful diversion.

Chemicals used in drug manufacture are divided into two categories, precursor and essential chemicals, although the term precursors is used to identify both. Precursor chemicals are used in the manufacture of synthetic drugs and become part of the final product. They are sold commercially in relatively small quantities. Essential chemicals are used in the refining of coca and opium into cocaine and heroin. Although some remain in the final product, the basic raw material is the coca or opium. Many essential chemicals required for illicit drug manufacture have extensive commercial applications, are widely traded, and are available from numerous source countries.

All countries having commerce in precursor and essential chemicals—exporting, trading, transit, and importing—must exchange information to prevent their diversion throughout the transaction chain and to investigate successful diversions. The information exchange must include feedback from countries receiving information, particularly importing countries, on actions they have taken in response to it. The U.S. continues to seek implementation of effective multilateral mechanisms for this information exchange.

Participation in multilateral chemical control mechanisms requires the promulgation of national chemical control regimes, the regulatory structures to implement them, and the law enforcement structures to enforce them. The national regimes must include provisions for the multilateral information exchange, while respecting the legitimate commercial interests of the businesses involved.

International Framework for Chemical Control

The need for chemical control has been internationally recognized. Article 12 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 UN Drug Convention) establishes the obligation and international standards for parties to the Convention to control their chemical commerce to prevent diversion to illicit drug manufacture, and to cooperate with one another. The two tables of the Annex to the Convention list 23 chemicals as those most necessary for drug manufacture and, therefore, subject to control. Signatories to the Convention accept the obligation to enact national laws and regulations to carry out its provisions.

The Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD) has approved Model Regulations for the control of drug-related chemicals that set a high standard for government action. The Model Regulations cover all the chemicals included in the 1988 UN Drug Convention. Many Latin American countries have adopted chemical control laws and regulations based on the CICAD Model Regulations.

The European Union has two chemical control regulations binding on all member states. The first, issued in 1990, meets the chemical control provisions of the 1988 UN Drug Convention. The second, issued in 1992, expanded the first to incorporate the more comprehensive recommendations contained in the 1991 G-7 Chemical Action Task Force Report. The regulations have been updated to better deal with the problem of synthetic drug chemicals.

The 1988 UN Drug Convention, national legislation and regulations provide the framework for chemical control. They do not provide the mechanisms for the multilateral information exchange required for their successful implementation. The United States and other governments use the annual meetings of the UN Commission on Narcotic Drugs (CND) to forge agreement on information exchange mechanisms and to highlight emerging chemical control concerns.

The CND is also used to focus international attention on the use by traffickers of substitute chemicals in place of those controlled under the 1988 UN Drug Convention, particularly in the manufacture of synthetic drugs. In 1996, the United States introduced a resolution which was adopted by the CND

requesting the UN International Narcotics Control Board (INCB), with the UN International Drug Control Program, to establish a limited international special surveillance list of chemicals not included in the Convention for which substantial evidence exists of their use in illicit drug manufacture. In 1998, the INCB, drawing on contributions of different governments, established the list to alert governments to the chemicals.

The June 1998 "United Nations General Assembly Special Session Devoted to Countering the World Drug Problem Together" (UNGASS) was an important vehicle for promoting chemical control. Two of the five action plans adopted by the Special Session—those dealing with amphetamine-type stimulants and their precursors and the control of precursors—were directly connected to chemical control. In April 2003, CND members reviewed progress in achieving the ten-year goals and objectives established by the UNGASS and reaffirmed their commitment to meeting them.

The U.S. has a chemical control agreement with the European Union, signed on May 28, 1997. It is particularly valuable in that it involves a 15-Member State organization representing some of the world's largest chemical manufacturing and trading nations. It also importantly provides for the exchange of information on chemical transactions with third countries.

Informal, voluntary operations targeting specific chemicals or classes of chemicals are proving invaluable in facilitating implementation of the Convention and agreements. They allow countries to exchange information in support of chemical control operations to the extent permitted by their commercial laws and practices. Operation Purple tracks trade in potassium permanganate, a key cocaine essential chemical, and Operation Topaz tracks trade in acetic anhydride, a key heroin essential chemical. By focusing on "choke point" chemicals, these operations allow authorities to concentrate resources on denying traffickers chemicals that are difficult to substitute in the drug production process without adverse impacts on product quality and the expense and ease of their manufacture. The INCB is now organizing a project, Project Prism, concentrating on stricter tracking of trade in the chemicals and equipment required to manufacture synthetic drugs.

How Traffickers Obtain Chemicals

Chemicals are traded in vast quantities from multiple sources, both domestically and internationally, offering many opportunities for their diversion to illicit drug manufacture. In a few cases, traffickers will manufacture chemicals, when diversion is successfully curbed through effective enforcement. Traffickers in the U.S. are increasingly extracting ephedrine and pseudoephedrine from non-prescription, over-the-counter medications for use in amphetamine and methamphetamine manufacture. The following are some of the more common diversion and other methods used to obtain chemicals:

- Chemicals are diverted from domestic chemical production to illicit in-country drug manufacture. This requires the domestic capacity to manufacture the needed chemicals, coupled with poor domestic controls on them.
- Chemicals are imported legally into drug-producing countries with official import permits and subsequently diverted. The failure of importing countries adequately to investigate legitimate end-use before issuing import permits, and the acceptance by exporting countries of import permits as sufficient proof of legitimate end-use without any effort at independent verification, make this possible.
- Chemicals are manufactured in or imported by one country, diverted from domestic commerce, and smuggled into neighboring drug-producing countries. Inadequate internal and import controls and weak border security make this type of diversion possible.

- Chemicals are mislabeled throughout a transaction as non-controlled chemicals. In this case, the diversion takes place at the manufacturer or distributor level. Poor controls that permit the initial diversion, coupled with the inability of enforcement officials to determine the true nature of the chemicals, permit this form of diversion.
- Chemicals are shipped to countries or regions where no systems exist for their control. This occurs because some chemical source countries do not insist that exports of controlled chemicals be only to countries that have in place viable, countrywide regulatory systems.
- New drugs ("designer drugs") are developed that have physical and psychological effects similar to controlled drugs, but which can be manufactured with non-controlled chemicals.
- Traffickers manufacture the controlled chemicals they require from unregulated raw materials, a costly and difficult process.
- Traffickers extract chemicals, particularly ephedrine and pseudoephedrine, from pharmaceutical preparations available without prescription or other controls.

These tactics are masked by the use of front companies, false invoicing, multiple transshipments, use of free trade zones, and any other device that will conceal the true nature of the product, its ultimate recipient or its final end-use.

There is some recycling of the solvents used in illicit drug manufacture; recycling cannot be used for acids, alkaline materials or oxidizing agents. Since recycling requires some sophistication, and there is a loss of chemical with each recycling process, it is not a preferred method for unsophisticated heroin and cocaine laboratories. The precursor chemicals used in the manufacture of synthetic drugs such as methamphetamine and ecstasy cannot be recycled.

2003 Chemical Diversion Control Trends and Initiatives

The danger posed by amphetamine-type stimulants (ATS) became even more apparent in 2003. A major study on ecstasy and amphetamines released in 2003 by the UN Office of Drugs and Crime noted that from the 1995-97 period to the 2000-01 period the number of amphetamine and methamphetamine users increased by 40 percent and the number of ecstasy users increased 70 percent. For the same periods the estimated number of cannabis and heroin users increased by about 15 and 5 percent respectively, while the number of cocaine users remained basically stable.

The same study noted that the greatest cost in ATS manufacture is the chemicals required, because they must be obtained through diversion and smuggling. In recognition of this, the international community, with the INCB in the lead, is moving forward with the design and implementation of Project Prism, a voluntary, multilateral initiative started in 2003 to track and prevent the diversion and trafficking of ATS chemicals and the equipment required for ATS manufacture. The major participants in Project Prism are China, the Netherlands, South Africa, the U.S., the European Commission, the International Criminal Police Organization (ICPO-Interpol), the World Customs Organization, and the INCB Secretariat.

ATS chemicals present a different and a more difficult target than cocaine and heroin chemicals. Cocaine and heroin are dependent on coca and opium as their basic raw materials. Both are grown in relatively restricted areas, primarily Colombia and other Andean Region countries, and Afghanistan and Burma. Their manufacture usually takes place near the source of the coca or opium and requires large quantities of chemicals.

ATS manufacture does not have these constraints. It requires no plant raw materials and can be accomplished in small labs wherever the chemicals are available. Furthermore the quantities of chemicals required are smaller (1.5 kilograms of ephedrine and other chemicals can produce 1 kilogram of amphetamine, or approximately 30,000 street doses). This highlights one of the most serious emerging problems, the extraction of sufficient ephedrine and pseudoephedrine from non-prescription medications to manufacture significant quantities of ATS. In previous years, pharmaceuticals from Canada, manufactured from large pseudoephedrine imports, supplied many U.S. ATS labs. However, in 2003, Canada significantly tightened controls on pseudoephedrine imports and Mexico is becoming a major supplier.

The major source countries for potassium permanganate and acetic anhydride participate in Operations Purple and Topaz designed to stem their diversion. However, traffickers continue to evade the reach of these initiatives by turning to non-participating countries to obtain these key cocaine and heroin chemicals. Many of these countries lack the legal, administrative, and law enforcement infrastructure to control the chemicals. Central Asian countries bordering Afghanistan are particularly worrisome in this regard as Afghanistan regains its position as the world largest opium producer, with about 75 percent of the global production.

The Road Ahead

The value of chemical control as an essential component of an overall counternarcotics strategy has been accepted, and the international obligation for governments to establish and implement chemical control regimes has been established. Furthermore, multilateral procedures for controlling the most important precursor and essential chemicals have been developed. The objective now is to make this package work more effectively. The most pressing elements are improving information exchange, expanding participation in existing operations, stemming the flow of heroin chemicals to Afghanistan, and addressing the problem created by traffickers using non-prescription drugs as a source of ATS chemicals.

Multilateral information exchange is the key to effective chemical control, and progress has been made in expanding the flow of information between national chemical regulatory and enforcement agencies, but more needs to be done. The misconception that exchanging commercial information in regulatory and law enforcement channels can compromise it and cause commercial disadvantage needs to be dispelled. As this happens, information on proposed transactions can be more widely shared, beyond the bilateral exchange between exporter and importer, thereby expanding the intelligence available to identify suspect transactions, and preventing traffickers from shopping among potential suppliers until they find one unaware of their male fides.

The two-way nature of information exchange needs to be improved. Currently, in too many cases exporting countries are not receiving replies to pre-export notifications sent to importing countries. The purpose of the pre-export notification is to enable to importing country authorities to verify the legitimacy of the transaction and reply to the exporting country, approving or denying the transaction. The system breaks down without replies, allowing shipments to proceed without verification and leading to a situation where exporting countries no longer bother with pre-export notifications.

More countries need to be enlisted into existing chemical information exchange mechanisms, Operations Purple and Topaz and Project Prism. Traffickers are avoiding their impact by obtaining chemicals from non-participating countries that make their decisions to authorize exports without the benefit of the information the operations provide.

The internal situation in Afghanistan with regard to drugs, as evidenced by the rapid resumption of opium poppy cultivation, indicates a limited capability to control chemicals. Therefore, efforts to deny

Afghan traffickers heroin essential chemicals need to concentrate on neighboring chemical transit countries. This is particularly true of Central Asian countries. However, because these countries also suffer from chemical control infrastructure shortfalls, and they do not manufacture key chemicals, control efforts should also focus on determining the original source countries and urging them to control better their exports to the region. By ensuring the legitimacy of transactions to neighboring countries, they can help preclude the diversion and smuggling of chemicals into Afghanistan from its neighbors.

The problem of traffickers extracting ATS precursor chemicals for non-prescription pharmaceuticals is most serious in the United States. Sales of many of the same preparations are controlled in some, but not all other countries. Furthermore, the 1988 UN Drug Convention has been generally interpreted to exclude pharmaceutical preparations from its requirements. This makes developing an international consensus in support of better controls difficult. However, there are things that can be done. Mindful of the extraction of precursor chemicals from pharmaceutical products, countries can be urged to apply the full provisions of article 12 of the 1988 UN Convention to monitor exports of pharmaceutical preparations containing ATS precursor chemicals. Moreover, governments can urge manufacturers to develop formulations of these pharmaceuticals that make it more difficult to extract ATS precursor chemicals.

These issues will be the major themes in our policy dialogue with our international partners in chemical control, starting with the March 2004 UN Commission on Narcotic Drugs and will be included in our regular bilateral contacts.

Major Chemical Source Countries

The countries included in this section are those with large chemical manufacturing or trading industries that have significant trade with drug-producing regions, and those countries with significant chemical commerce susceptible to diversion domestically and smuggling into neighboring drug-producing countries. Designation as a major chemical source country does not indicate a country lacks adequate chemical control legislation and the ability to enforce it. Rather, it recognizes that the volume of chemical trade with drug-producing regions, or proximity to them, makes these countries the sources of the greatest quantities of chemicals liable to diversion. The United States, with its large chemical industry and extensive trade with drug-producing regions, is included in the list.

Many other countries manufacture and trade in precursor chemicals, but not on the same scale, or with the broad range of precursor chemicals, as the countries in this section. These designations are reviewed annually.

Article 12 of the 1988 UN Drug Convention is the international standard for national chemical control regimes and for international cooperation in their implementation. The annex to the Convention lists the 23 chemicals most essential to illicit drug manufacture. The Convention includes provisions for the Parties to maintain records on transactions involving these chemicals, and to provide for their seizure if there is sufficient evidence that they are intended for illicit drug manufacture.

The Americas

Argentina

Argentina has a well-developed chemical industry that manufactures chemicals necessary for cocaine processing. Many of these are liable to smuggling into neighboring Bolivia. Argentina is a party to the 1988 UN Drug Convention, and has laws meeting the Convention's requirements for record keeping, import and export licensing, and the authority to suspend shipments. Presidential decrees have placed controls on precursor and essential chemicals, requiring that all manufacturers, importers or exporters, transporters, and distributors of these chemicals be registered with Secretariat for the Prevention of Drug Addiction and Narcotics Trafficking (SEDRONAR).

During 2003, Argentina took positive steps to improve its chemical control system. Some of these steps included revamping the National Chemical Registry, the adoption of the UN-designed National Data System and the installation of a 24-hour chemical help line to assist law enforcement agencies in the field. Starting in April 2002, SEDRONAR implemented a fee for services system that allowed it to obtain funds to modernize its technological infrastructure. Additional personnel have been hired to analyze information submitted by registrants to identify rogue companies. Inspections conducted in 2003 resulted in at least eight civil actions and several criminal referrals to the Argentine Prosecutors Office.

Investigations and seizures of suspicious shipments, especially in the northern border area, have also become an increasingly important element of Argentine counternarcotics efforts. From November 2002 to October 2003, law enforcement authorities in the northern border area seized more than 401 metric tons of chemicals.

Despite these achievements, Argentina needs to enhance its legal provisions to provide a real deterrent to chemical diverters. The current chemical control legislation does not appropriately address civil and criminal sanctions against firms and/or individuals who violate the

established chemical control regulations. Existing legislation only sanctions violations that are carried out within 100 kilometers of the northern border.

Argentina is a participant in Operation Topaz and Operation Seis Fronteras. Argentine authorities willingly shares chemical control information with U.S. authorities.

Brazil

Brazil is a party to the 1988 UN Drug Convention. It has South America's largest chemical industry, and also imports significant quantities of chemicals to meet its industrial needs.

Brazilian law requires registration with the Federal Narcotics Police of all producers, transporters and distributors of precursor chemicals. The chemical section of the Drug Enforcement Division of the Federal Police has the authority to add or delete chemicals to the list of chemicals under control. New regulations effective in February 2003 increased the number of controlled chemicals to 146. Any person or company that is involved in the purchase, transportation, or use of these chemicals must have a certificate of approval of operation, real estate registry and other documents issued by the Federal Police. Companies are required to keep records and submit audits and reports on a monthly basis.

The Federal Police have organized precursor chemical training and initiated interdictions targeting controlled chemicals. These have included cyclical audits and investigations of Brazilian chemical firms.

Brazil borders the three major cocaine-producing countries, Colombia, Peru and Bolivia, making Brazilian chemicals liable for diversion from the domestic market and smuggling across remote borders into these countries. There are indications of cocaine labs on Brazilian territory for processing coca and partially processed cocaine smuggled from these countries into cocaine HCL, using domestically diverted chemicals.

Brazil participates in international initiatives targeting chemical diversion, such as Operations Purple and Topaz, and the new Project Prism. It also participates in Operation Seis Fronteras, a regional exercise involving Argentina, Brazil, Colombia, Ecuador, Peru, Venezuela, and DEA to concentrate counternarcotics law enforcement efforts on chemical control. Brazil hosted a meeting of the OAS-CICAD experts group on precursor chemicals in August 2003.

Brazil has established procedures under which records of transactions in precursor and essential chemicals can be made available to other countries' law enforcement authorities. The 1995 bilateral U.S./Brazil Counternarcotics Agreement provides the formal basis for information sharing with U.S. authorities. DEA has a Diversion Investigator assigned to its Brasilia office.

Canada

Canada is a transit and producer country for precursor chemicals and over-the-counter drugs used to produce synthetic drugs, particularly methamphetamine. The chemical most widely used for this purpose is pseudoephedrine, a regulated chemical on Table 1 of the 1988 UN Drug Convention. Other precursor chemicals available in Canada that are used in synthetic drugs manufacture include sassafras oil, piperponal and gamma butyrolactone. Canada is a party to the 1988 UN Drug Convention.

Until 2003, Canada had not effectively controlled imports of pseudoephedrine, with the result that legal imports increased, primarily from China, India and Germany. Significant amounts of these imports were smuggled into the U.S., either in bulk, or in tablet form as an antihistamine, for use in U.S. methamphetamine labs. This changed on January 9, 2003, when

new Canadian regulations brought the strengthened chemical control provisions of the Controlled Drug and Substances Act into force. The new regulations provide for control of the 23 chemicals listed in the 1988 UN Drug Convention, and for the proper licensing of companies in order to import, export, produce, or distribute controlled chemicals. The agency with primary responsibility for implementing the new regulations is Health Canada, but lead enforcement responsibility lies with the Royal Canadian Mounted Police. At the request of Health Canada, in early 2003 DEA sent a Diversion Investigator and a Program Analyst to advise on U.S. experience in implementing chemical controls. Cooperation on regulatory matters between DEA and Health Canada is very good and ongoing. Canada is participating in Project Prism.

Law enforcement cooperation is excellent, and includes information sharing. In April 2003, DEA and the RCMP announced the arrest of 65 individuals in ten cities throughout the U.S. and Canada. The investigation, dubbed Operation Northern Star, targeted the entire methamphetamine trafficking process, including the suppliers of precursor chemicals, transporters, manufacturers, distributors, and money launderers. The 34,000 pounds of pseudoephedrine seized could have produced approximately 20,000 pounds of methamphetamine.

Mexico

Mexico has major chemical manufacturing and trading industries that produce, import or export most of the chemicals necessary for illicit drug manufacture. The country is a party to the 1988 UN Convention and has laws and regulations meeting its chemical provisions.

During 2003, Mexico took significant steps towards improving the regulatory component of its chemical control program. Changes and improvements included implementation of a UN-designed National Data System and the creation of a regulatory inspections group. This has enabled Mexico to respond to pre-export notifications it receives and to issue its own in a timely manner. Additionally, unannounced inspections of chemical firms are being conducted on a regular basis. As a result of these inspections, Mexican authorities have taken civil and administrative actions against several firms and have referred matters for criminal investigation.

In addition, the Federal Investigative Agency has created a Chemical Sensitive Investigative Unit and assigned one of its members to investigate chemical and pharmaceutical diversion. Mexico is a good example of the growing problem, whereby traffickers exploit non-prescription pharmaceuticals containing easily extractable pseudoephedrine as a source of this precursor for methamphetamine manufacture. Elements of the new investigative unit collect and analyze information on past shipments from the Far East to determine common links and use this information to identify those responsible for illegal shipments. International information sharing resulted in the identification of 75 illicit shipments of pseudoephedrine products to bogus firms in Mexico, totaling over 420 million 60 mg tablets. From September 2003 until year's end, four controlled deliveries, conducted in coordination with DEA, resulted in the seizure of four pseudoephedrine shipments originating in Hong Kong totaling 12.6 million tablets and the closure of a customs broker.

Mexico has recently taken steps towards more vigorous enforcement of criminal chemical diversion cases. A streamlined system of referrals, together with the designation of prosecutors to focus on these cases should help. In January 2004, U.S. prosecutors and law enforcement agents conducted a workshop for Mexican chemical prosecutors; this was the first workshop of its kind.

Mexico is an active participant in Operations Purple and Topaz, and Project Prism. The U.S.-Mexico bilateral chemical control working group is the formal vehicle for information sharing and coordination on chemical control. It met once in 2003. Information is exchanged more regularly in the course of normal operational cooperation. DEA has two Diversion Investigators assigned to it Mexico City office.

The United States

The United States manufactures and/or trades in all 23 chemicals listed in the Annex to the 1988 UN Drug Convention. It is a party to the Convention and has laws and regulations meeting its chemical control provisions.

The basic U.S. chemical control law is the Chemical Diversion and Trafficking Act of 1988. This law and three subsequent chemical control amendments were all designed as amendments to U.S. controlled substances laws, rather than stand-alone legislation, and are administered by the Drug Enforcement Administration (DEA). In addition to registration and record keeping requirements, the legislation requires traders to file import/export declarations at least 15 days prior to shipment of regulated chemicals. DEA uses the 15-day period to determine if the consignee has a legitimate need for the chemical. Chemical diversion investigators are assigned to DEA offices in 10 key countries and one at INTERPOL to assist in determining legitimate end-use. In other countries, DEA agents perform this task. The diversion investigators and agents work closely with host country officials in this process. If legitimate end-use cannot be determined, the legislation gives DEA the authority to stop shipments. U.S. Customs and Border Protection provides important assistance in this area.

The legislation also requires chemical traders to report to DEA suspicious transactions such as those involving extraordinary quantities, unusual methods of payment, etc. Close cooperation has developed between the U.S. chemical industry and DEA in the course of implementing the legislation.

The U.S. aggressively investigates cases of suspected chemical diversion, especially to illicit methamphetamine labs, and applies the whole gamut of criminal, civil and administrative sanctions to violators. Criminal penalties for chemical diversion are strict; they are tied to the quantities of drugs that could have been produced with the diverted chemicals.

The U.S. has had a leadership role in the design, promotion and implementation of cooperative multilateral chemical control initiatives. It co-chairs the steering committee for Operations Purple; it is on the steering committee for Operation Topaz and the task force coordinating Project Prism. It also has established close operational cooperation with counterparts in major chemical manufacturing and trading countries. This cooperation includes information exchange in support of chemical control programs and in the investigations of diversion attempts.

Asia

China

With a large and developed chemical industry, China is major producer of chemicals required for illicit drug manufacturer. It is a major producer of acetic anhydride, potassium permanganate, ephedrine, and pseudoephedrine, all chemicals on table 1 of the 1988 UN Drug Convention. The country is a party to the 1988 UN Drug Convention and has regulations for record keeping and import/export controls on the 23 chemicals included in it. Several

provinces, including Yunnan (which shares a border with Burma), have more stringent controls than called for in the convention.

The Chinese Public Security Bureau maintains a small chemical control unit in Beijing to investigate chemical diversion and to verify the legitimacy of chemical handlers and transactions. In the provinces, provincial police only address controlled chemicals when they are discovered at a clandestine laboratory. China also requests "letters of no objection" from importing countries prior to authorizing exports of methamphetamine precursor chemicals.

Despite the adequate legislation, China remains a significant source country for chemicals diverted worldwide for the illicit production of cocaine, heroin, methamphetamine, and ecstasy. The country lacks the infrastructure to monitor adequately its large chemical production capacity and its international trade in chemicals.

In 2003, Chinese authorities claim to have made significant progress in controlling precursor chemicals. The Executive Director of the National Narcotics Control Commission has emphasized the need to prevent the supply of chemicals to the drug producing countries of the "Golden Triangle." In 2002, the latest year for which figures are available, 28 illicit shipments involving 2288 tons of chemicals were stopped.

U.S. and Chinese cooperation in chemical control is good, within the limits of Chinese capabilities. China is a participant in Operations Purple and Topaz, and Project Prism. Information is exchanged through these operations in the course of normal counternarcotics cooperation. DEA has Diversion Investigators assigned to its Beijing and Hong Kong offices.

India

India's large and fairly advanced chemical industry manufactures a wide variety of chemicals, including ephedrine, pseudoephedrine and acetic anhydride, sought for amphetamine, methamphetamine and heroin manufacture in Burma and heroin manufacture in Afghanistan. There is also evidence that some acetic anhydride is being diverted to domestic heroin manufacture.

India is a party to the 1988 UN Drug Convention, but it does not have controls on all the chemicals listed in the Convention. There are controls on the Indian-produced chemicals most likely to be diverted, ephedrine, pseudoephedrine, acetic anhydride, and N-acetylanthranilic acid, chemicals listed in the convention. Indian law allows the government to place other chemicals under control. The list is reviewed and updated annually. In February 2003, the government added anthranilic acid to the list of controlled chemicals, since it has been found in the manufacture of methaqualone (Mandrax).

The Indian Chemical Manufacturing Association, in cooperation with the government, has implemented strict controls on acetic anhydride. Chemical manufacturers visit customers to verify the legitimacy of their requirements, and shipments are monitored to prevent diversion. Domestic and export sales of acetic anhydride require a letter of no objection from the government.

Indian authorities are very cooperative with the U.S. on letters of no objection and verification of end-users, especially with regard to ephedrine and pseudoephedrine. Information is shared between Indian and U.S. authorities and India is a participant in Operations Purple and Topaz and Project Prism. India co-chairs the steering committee for Operation Topaz.

DEA has a Diversion Investigator assigned to its New Delhi office.

Europe

Chemical diversion control within the European Union (EU) is regulated by EU regulations binding on all Member States. These regulations meet the chemical control provisions of the 1988 UN Drug Convention and the more comprehensive recommendations contained in the 1991 G-7 Chemical Action Task Force Report. The EU regulations are updated to meet emerging drug threats, such a synthetic and designer drugs. The regulations include provisions for record keeping on transactions in the chemicals listed in the Convention, require a system of permits or declarations for exports and imports of regulated chemicals, and authorize governments to suspend chemical shipments. EU member states implement the regulations through national laws and regulations.

The EU regulations govern the regulatory aspects of chemical diversion control. Member States are responsible for the criminal aspects, investigating and prosecuting violators of the national laws and regulations implementing the EU regulations.

The U.S.-EU Chemical Control Agreement, signed May 28, 1997, is the formal basis for U.S. and EU Member State cooperation in chemical control. The agreement calls for annual meetings of a Joint Chemical Working Group to review implementation of the agreement and to coordinate positions in other areas. The annual meeting has been particularly useful in coordinating national or joint initiatives such as resolutions at the annual UN Commission on Narcotic Drugs.

Bilateral chemical control cooperation is also good between the U.S. and EU Member States, and many are participating in and actively supporting voluntary initiatives such as Operations Purple and Topaz, and the new Project Prism.

Germany and the Netherlands, with large chemical manufacturing or trading sectors and significant trade with drug-producing areas, are considered the major European chemical source countries. Other European countries have important chemical industries, but the level of chemical trade with drug-producing areas is not as large and broad-scale as these countries.

Germany

Germany's large chemical industry manufactures and sells most of the precursor and essential chemicals used in illicit drug manufacture, making it a target for traffickers seeking chemicals. In recognition of this, precursor control as a preventive measure is a major focus in combating drug crime in Germany. The country is a party to the 1988 UN Drug Convention and has chemical control laws and regulations, based on the EU regulations, meeting the Convention's requirements. The federal Precursor Control Act criminalizes the diversion of controlled chemicals for the illicit manufacture of drugs. The 1994 code was amended in 2002, and a regulation for criminalizing violations of the EU chemical regulations was adopted.

The country has an effective and well-respected chemical control program that monitors the chemical industry, as well as chemical imports and exports. Cooperation between chemical control officials and the chemical industry is a key element in Germany's chemical control strategy. The Federal Police and German Customs have a very active Joint Precursor Chemical Unit, based in Wiesbaden, devoted exclusively to chemical diversion investigations.

Germany has been in the forefront of international cooperation in chemical control. It developed and promoted the concept that led to Operation Purple and co-chairs its Steering Committee. Germany was one of the leaders in the organization of Operation Topaz and is now actively participating in its operation. It actively supports the new Project Prism.

German chemical control officials and DEA counterparts maintain a close working relationship. A senior DEA Diversion Investigator in DEA's Frankfurt Resident Office

cooperates closely with the Joint Precursor Chemical unit, working on chemical issues of concern to both countries. This arrangement allows for the real-time exchange of information. German and U.S. delegations regularly support joint positions on chemical control in multilateral meetings such as the Commission on Narcotic Drugs.

The Netherlands

The Netherlands is a major chemical manufacturing and trading country. There are large chemical storage facilities, and Rotterdam is the world's busiest port. These combine to make the country attractive to criminals seeking chemicals for illicit drug manufacture.

The Netherlands is a party to the 1988 UN Drug Convention and has legislation meeting its chemical control requirements and the EU regulations. The 1995 Act to Prevent Abuse of Controlled Substances provides for prison sentences (maximum of six years), and fines (up to $50,000), or asset seizures for chemical diversion offenses. The Fiscal Information and Investigative Service and the Economic Control Service oversee implementation of the law.

Large quantities of ecstasy are manufactured in the Netherlands, and the government has become pro-active in meeting this threat. It is taking a lead role in the development of Project Prism, a multilateral initiative to control better the chemicals and equipment required for synthetic drugs manufacture, and in raising awareness of the adverse health and social consequences of their abuse. In October 2003, the government hosted the "International Synthetic Drugs Enforcement Conference" (Syndec), with participation from all major Western European, North American and many Latin American countries. Enforcement efforts are also being stepped up. A July 8, 2003 government report to parliament reported an increased in the number of ecstasy labs seized in 2001 to 2002 of 35 to 43, and in the number of pills confiscated from 3.6 million to 6 million.

The government has concluded that many of the important precursor chemicals used in local ecstasy manufacture come from China. It is providing administrative data on precursor seizures to the International Narcotics Control Board and exporting countries (mostly China). In view of the human rights situation in China, the Netherlands will not enter into a mutual legal assistance treaty. However, in October 2003, the government proposed a Memorandum of Understanding formalizing the existing information exchange, and providing for feedback from the Chinese on actions taken in response to the information being provided. No response has yet been received.

The Dutch continue to work closely with the U.S. on precursor controls and investigations. This cooperation includes formal and informal arrangements for information exchange. U.S. and Dutch authorities cooperate closely in multilateral operational initiatives and in international meetings such as the Commission on Narcotic Drugs.

Major Drug Countries

Drug manufacture requires significant quantities of chemicals. Most major illicit drug manufacturing countries do not produce all the required chemicals, and traffickers must meet their chemical requirements from external sources. This section summarizes the sources of chemicals used in major drug manufacturing countries and their initiatives to control these chemicals.

Asia

Afghanistan

International and U.S. surveys indicate that in 2003 Afghanistan again produced three-quarters of the world's illicit opium. An increasingly large portion of the raw opium crop is being processed to some extent in country. There are labs in Afghanistan capable of processing opiates in all forms, from morphine base to fully refined white heroin.

With no domestic chemical industry, the chemicals required for heroin processing must come from abroad. The principal sources have been Europe, the Central Asian States and India. They are smuggled through the Central Asian States, the Persian Gulf and Pakistan, after being diverted elsewhere.

Afghanistan is a party to the 1988 UN Drug Convention and it has joined Operation Topaz, directed at controlling the heroin chemical acetic anhydride. However, it lacks the legal, regulatory and enforcement infrastructure to comply with the Convention's chemical control provisions, or to actively participate in Operation Topaz. Until the infrastructure is developed, Afghanistan will require regional cooperation to prevent the transit of chemicals for smuggling into the country.

Burma

Burma remains the primary source of ATS in Asia, producing hundreds of millions of tablets annually, and is the world's second largest illicit opium producer, but cultivation is decreasing. Burma does not have a chemical industry and the chemicals required for ATS manufacture and the processing of opium into heroin are primarily produced in India, China and Thailand.

Although a party to the 1988 UN Drug Convention, Burma does not have laws and regulations to meet its chemical control provisions. In 2002, the Ministry of Health issued notification No.1/2002 identifying 25 substances as precursor chemicals and prohibiting their import, sale or use in Burma. Seizures of key precursor chemicals declined during the first ten months of 2003. Ephedrine seizures, an ATS precursor, were 266 kilos and acetic anhydride seizures, a heroin chemical, were 2,540 liters. In 2002, the totals were 3,922 kilos of ephedrine and 12,318 liters of acetic anhydride.

Burma has been active in regional chemical control initiatives. In January 2003, it hosted a chemical control meeting with India, China and the UN Office of Drugs and Crime, and in July 2003 with India, China, Thailand, and Laos. Burma also participated in a chemical control meeting in Thailand that included India, China and Laos. The five countries agreed on cross-border cooperation to stop the flow of precursors chemicals among the countries of the Mekong river sub-region. Burma is a participant, although largely inactive, in Operation Topaz.

Latin America

Bolivia

Bolivia is not a major producer of precursor chemicals, virtually all such chemicals are smuggled in from neighboring countries. One of the continuing focuses of Bolivian counternarcotics policy is the interception of smuggled chemicals and the detection and destruction of the organizations that smuggle chemicals into Bolivia.

Bolivia has an increasingly effective chemical interdiction program led by the Special Group for Investigations of Chemical Substances (GISUQ), an elite group within the Bolivian counternarcotics police. The historically weak Bolivian Directorate of Controlled Substances (DGSC), a civilian agency, is responsible for registering and tracking industrial chemicals, including drug precursors. Although GISUQ has succeeded in making precursor chemicals more difficult and expensive to obtain, Bolivian traffickers have been able to adapt by substituting inferior chemicals and recycling—the purity of Bolivian cocaine base has actually improved in recent years (a study of 108 samples taken in the Chapare in 2001 and 2002 showed an average purity level of 74 percent). GISUQ has revised its strategy to focus more aggressively and exclusively on sulfuric acid and sodium bicarbonate, which are difficult to substitute in Bolivia.

In 2003, GISUQ showed impressive gains, having increased seizures of solid precursors by 384 percent and liquid precursors by 127 percent over the same period in 2002. GISUQ is pressing DGSC to improve information sharing and tracking of key precursors. There is a proposal for GISUQ to assume control of DSCG's inspection function.

Bolivia is a party to the 1988 UN Drug Convention, and has the legal framework for implementing its chemical control provisions. Bolivia participates in voluntary multilateral chemical control initiatives such as Operation Purple and Operation Seis Fronteras, and cooperates closely with U.S. officials. DEA has a Diversion Investigator assigned to its La Paz office.

Colombia

The chemicals required for Colombia to maintain its position as the world's largest producer of cocaine and an important producer of heroin are primarily imported into the country with valid import licenses and subsequently diverted. Lesser amounts are smuggled in from neighboring countries, Brazil, Ecuador and Venezuela.

Colombia is a party to the 1988 UN Drug Convention and has chemical control laws meeting or exceeding its requirements. The National Police Anti-Narcotics Chemicals Regulatory Units conduct inspections and criminal investigations of registered chemical companies, and the units also work with the Direccion Nacional de Estupefacientes to conduct operations targeting chemical companies authorized to handle the key cocaine and heroin precursors, potassium permanganate and acetic anhydride, in order to determine their legitimate industrial needs.

A major problem in Colombian chemical control continues to be the system for issuing import permits. They are not reliable proof that the legitimate end-use for the chemicals has been verified prior to issuance. The permits are also issued for lengthy periods of time, rather than on a shipment-by-shipment basis. This has resulted in numerous cases of diversion in which

the Colombian importer had a valid import permit, and the diversion was accomplished after the legal importation.

Colombia participates in Operations Purple and Topaz, and Operation Seis Fronteras. DEA has a Diversion Investigator assigned to its Bogota office.

Peru

Peru produces some of the chemicals required for cocaine processing and imports the remainder. Many tons of these are diverted from legitimate use, and other chemicals are smuggled in, usually via rivers from Brazil and Colombia. The Peruvian National Police (PNP) proactively cooperate with neighboring countries and the U.S. to conduct regional chemical control operations. In 2003, the PNP seized over 900 metric tons of illicit chemicals.

Peru is a party to the 1988 UN Drug Convention and has laws meeting its chemical control provisions.

U.S. and Peruvian authorities cooperate closely in chemical control. With U.S. assistance, a precursor chemical assessment was completed in November 2003, providing a roadmap for the government to implement a series of reforms, including drafting new chemicals control legislation, which could substantially reduce the flow of precursor chemicals and increase the effectiveness of interdiction efforts in coca growing areas. Peru is a strong supporter of Operation Seis Fronteras and participates in Operation Purple.