

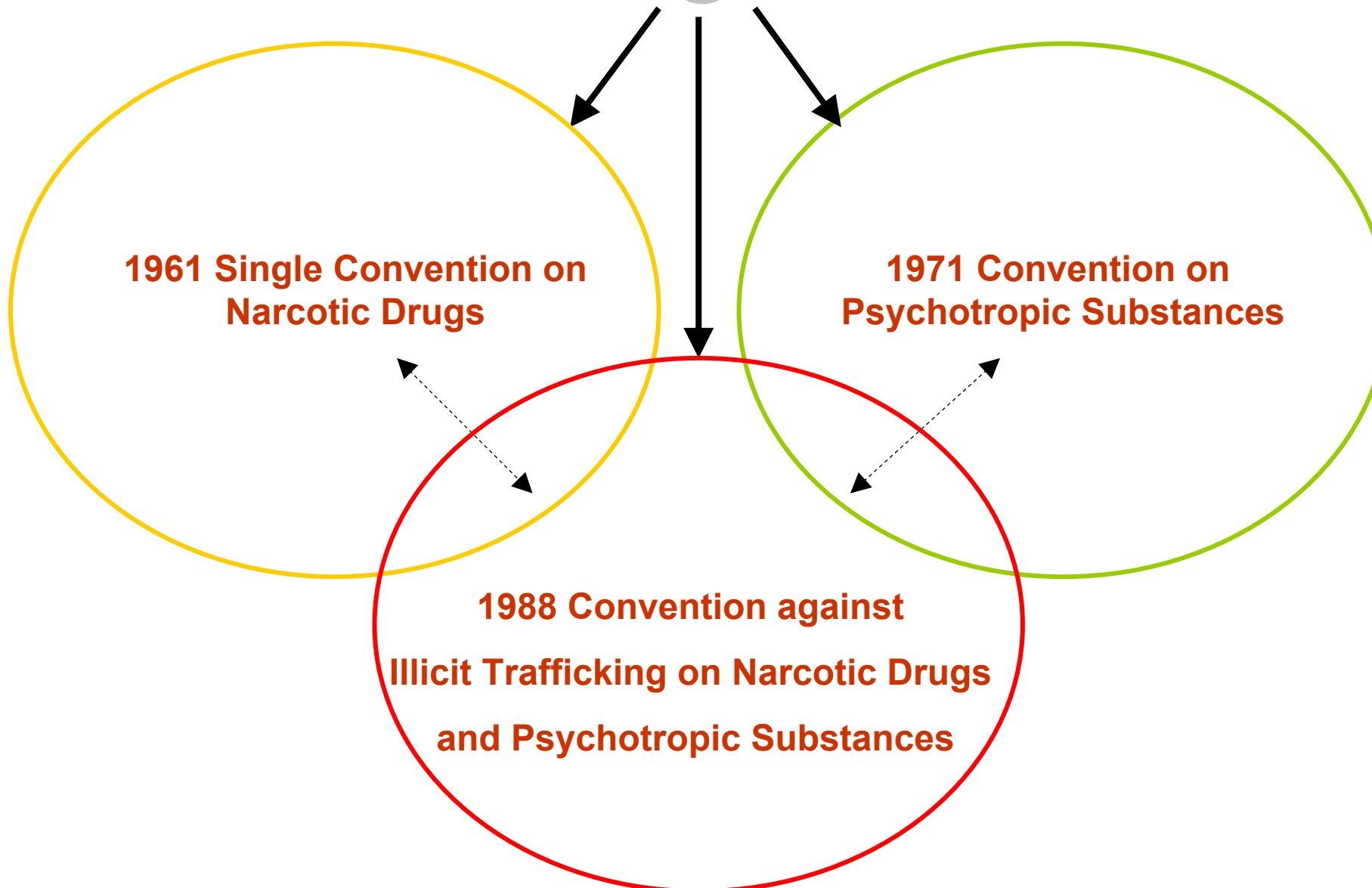
# THE SENLIS COUNCIL

D r u g P o l i c y A d v i s o r y F o r u m

## Summary of UN drug control treaties

*Summary of map on UN drug treaties compiled by Fabrice Pothier for NEF-EDPF*

# UN Drug Treaties



## 1961 Single Convention on Narcotic Drugs

### Obligations

Parties should regulate production and manufacture of controlled substances (Art. 2; Art. 21 to 34) and limit them to medical and scientific purposes (Art. 4).

Parties should declare as punishable offences all activities related to production, manufacture and sale of illicit substances (Art. 36).

### Scope

Narcotics are classified into 4 schedules (Art. 2, par. 5): Schedules 1 & 4 for most controlled substances (e.g. cannabis; cocaine; heroin); Schedule 2 & 3 for substances under less rigid control (e.g. codeine; pharmaceutical powders)

### Criminalisation

Possession of narcotic drugs for trafficking, production and manufacture (Art. 36).

Parties are not explicitly obliged to criminalise possession and purchase of drugs for personal use, but they should not "permit" (Art.33 & Art. 36).

### Reaction

The Convention distinguishes between "punishable offence" and "serious offences" without defining them (Art. 36, par.1). Both requirements leave room for implementation: Parties can decide what serious and punishable offences are and their adequate punishment. In supplement to punishment, Parties may provide treatment/social care "no matter how serious that offence may be" (Art. 36 par. 1(b) & Art. 38) (i.e. even in prison). However, the spirit of the Convention considers such measures as only supplementary to imprisonment.

## 1971 Convention on Psychotropic Substances

### Obligations

Similar to 1961 Convention (Art. 22), although the INCB oversees the application of the provisions (Art. 18 & 19).

### Scope

Schedule I include use of substances strictly limited to medical and scientific purposes. (Art. 2, 4 & 7) (e.g. amphetamine)  
Schedules II, III & IV (e.g. tranquilisers): use and possession of scheduled substances permitted in specific cases and preferably (i.e. "desirable") under legal authority (Art. 2, 4, 8 & 9).

### Criminalisation

No precision on which offences are to be criminalised by Parties (Art. 22). If Parties should restrict possession and use of illicit drugs to medical and scientific purposes (Art. 4 & 5), there is no explicit obligation for them to prohibit possession for personal use. Art. 5, par. 3 only spells out the "desirability" of legislative action by Parties.

### Reaction

Similar to Art. 36 of the 1961 Convention, Art. 22 distinguishes between "punishable offences" and "serious offences" without defining any of them: it leaves room for implementation to Parties.  
Similar room for alternative measures (i.e. treatment; education) is left in Art. 22 & 20 to Parties, including drug use in prison. However, the spirit of the Convention considers such measures as only supplementary to imprisonment.

# 1988 Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances

## Obligations

Parties are obliged to establish as criminal offences all supply-related activities (Art. 3, par. 1 ) as well as possession or purchase for personal use (Art. 3 par. 2).

Provisions should be taken to ensure full co-operation among the Parties to combat effectively the international illicit trafficking (Art. 3, 5, 6, 7, 8 & 10). The INCB oversees the implementation of the Convention by Parties (Art. 21).

## Scope

Include narcotic drugs and psychotropic substances covered by 1961 & 1971 Conventions. Adds precursor substances in Table I & II in Annex to the Convention (Art. 3, (1), (c) (ii)).

## Criminalisation

Absolute obligation to criminalise all activities related to production, manufacture & sale of illicit drugs (Art. 3, par. 1).

Obligation to make the "possession, purchase or cultivation (...) for personal consumption" a criminal offence. But its establishment is subject to Parties' constitutional principles (Art. 3, par. 2).

## Reaction

For supply-related criminal offences, sanctions have to take into account "the grave nature" of the offences spelled out in Art. 3, par. 1. In addition, Parties can provide alternative measures to offenders (Art. 3, par. 4 (b)), even in prison. In cases of "minor nature" of the offences or when the offender is a drug abuser, Parties may provide alternative measures (Art. 3, par. 4 (c)).

For personal consumption punishment or conviction are the two possible reactions. Without giving clear definition of "punishment", there is no obligation however for penal reaction. Parties can provide either as an alternative or in addition to sanction alternative measures to the offender (Art. 3, par. 4 (d)), and even in prison.

# Reform possibilities

## Amendment



**1961 & 1971 Conventions:** any Party can submit an amendment to the Secretary-General, who communicates it to the ECOSOC Council. The Council decides either to call for an international conference or to give 18 months to other Parties to consider the amendment. One Party is enough to reject the whole amendment. However, the Council can still consider the possibility of a conference on the basis of comments received from Parties (Art. 47).



**1988 Convention:** the Council is bypassed and the Secretary-General proceeds on his own authority to circulate the amendment among Parties (Art. 31). If the amendment is not rejected by any Party within 24 months, it is accepted. Additionally, a majority of the Parties can request Council intervention, which may call a conference

## Reservation



**1961 & 1971 Conventions:** Parties can make transitional reservation at the time of signature, ratification or accession on the right to permit production and use of opium, coca leaf and cannabis (Art.49). Definitive reservations are possible: if after 12 months, less than 1/3 of the States object, the reservation will be permitted.



**1988 Convention:** there is no specific provision on reservations: Art. 19 of the Vienna convention on the Law of Treaty applies.

## Denunciation



**1961 & 1971 Conventions:** any Party can denounce on its own behalf the Convention. If 138 of the 177 Parties denounce the Convention, it ceases to exist.



**1988 Convention:** any Party can denounce the Convention at any time (Art. 30). Different from the two other Conventions, there is no specific provision on the termination of the Convention. Under Art. 55 of the 1986 Vienna Convention on the Law of Treaties, even if the number of Parties falls below twenty (the number necessary for its entry into force), the Convention cannot cease to exist

## Modification



**1961 & 1971 Conventions:** any Party or the WHO can notify the Secretary-General of a proposal for modification of the Schedules (Art. 3 and Art. 8 for role of CND)



**1988 Convention:** except from the WHO being replaced by the INCB in the technique of modifying the Tables (Art.21), the procedure is similar to the one mentioned in the two other Conventions (Art. 12 par. 2 to 7).