

**Table of content of the report on
Controlled Delivery**

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[Table of contents](#)

[Conclusions and recommendations](#)

Table of contents:

Preface- General considerations: Theoretical and legal bases of “Controlled Delivery of Illicit Drugs”

Chapter One: Reflection of Article 11 of 1988 Convention in domestic legislation of States

Part 1: American countries

- A) Canada
- B) Venezuela
- C) Peru
- D) Brazil
- E) Chile

Part 2: European countries

- A) UK
- B) France
- C) Germany
- D) Italy
- E) Spain

Part 3: Countries from Asia and Oceania

- A) Turkey
- B) New Zealand

Part 4: Central Asian Countries

- A) Kyrgystan
- B) Kazakhstan
- C) Tajikistan

Part 5: African Countries

- A) Senegal
- B) Togo

Chapter Two: Methods of concealment and discovery of drugs

Part 1: Methods of concealment

- A) Fixed concealment
- B) Mobile concealment

Part 2: Methods of discovery of drugs

- A) Traditional methods
- B) Modern methods

Chapter three: Methods of monitoring and controlling the drug consignments

Part 1: Traditional methods of monitoring and control

- A) Planning the monitoring and control operations
- B) Various types of the monitoring and control operations

Part 2: Modern methods of monitoring and control

- A) Satellite monitoring and control operations
- B) Electronic monitoring and control operations

Chapter Four: Obstacles in the lawful implementation of Article 11 of the 1988 Convention in Iran

Part 1: Legal impediments

- A) Conflict of domestic law with Article 11 of 1988 Convention
- B) Lack of coherence among the laws of the source, transit and destination countries

Part 2: Operational impediments

- A) Non-implementation of bilateral or multilateral MOUs
- B) Lack of trained and skilled personnel
- C) Lack of equipment and facilities
- D) Huge expenses of operations

Chapter Five: Practical solutions for controlled delivery operations in Iran

Part 1: Domestic solutions

- A) Legislation
- B) Training the personnel
- C) Establishing coordination between organizations
- D) Provision of equipment and facilities

Part 2: Regional Solutions

- A) A regional treaty (within the framework of ECO)
- B) Establishment of a regional police (ECOPOL)
- C) Police cooperation through signing MOUs
- D) Police cooperation of police authorities through INTERPOL offices

Part 3: International Solutions

- A) Coordination and cooperation between ECO and the UN
- B) Coordination and cooperation between ECO and the EU
- C) Cooperation between ECOPOL and INTERPOL
- D) Coordination and cooperation between ECOPOL and EUROPOL

Conclusions and recommendations

Bibliography

Conclusions and Recommendations

As explained in the definition of “**controlled delivery**” stipulated in Article 11 (2) of 1988 Convention, the purpose of this method is “. . . **to identifying the persons involved**” in narcotic drugs offences, and ultimately dismantle the organized illicit traffic networks at the international level and “. . . **taking legal action against them**”. Therefore, cooperation among States on either side borders and on the route of narcotic drugs and psychotropic substances movement, particularly monitoring the movement of such illicit drugs through by air, land, and sea is required.

In this research, after having studied the legal obstacles and enforcement restrictions in Iran, we have proposed the ways as to institutionalize the methods of “controlled delivery” of narcotic drugs, the most important of which are summarized in two aspects namely; legislative and planning.

What needs to be considered in the legislative dimension is the permission for controlled delivery of illicit drugs pursuant to explicit domestic regulations. The first phrase of paragraph 1, Article 11“**if permitted by the basic principles of their respective domestic legal systems**” implies the status of domestic legal systems of some countries that in principle have no objection with the action taken by law enforcement officers within their functions, if they have not enacted any special regulations in this respect, However, in the written-law system, it seems that by virtue of principles like *the principle of legality for the functions performed by the State law enforcement officers*, the scope of new functions for the officers should clearly be defined in the law. Iran is placed in the category of the written-law systems.

In the planning dimension, three aspects i.e. training, equipment and management should be taken into account for the successful development of “controlled delivery” of narcotic drugs operations;

First, according to Article 9, paragraph 2 of 1988 Convention, the training for law enforcement officers is the task of each Party. Such a training should mainly cover the following areas:

- A. Methods used in the detection and prevention of offences, Article 3 (1)*
- B. Routes and techniques used by persons suspected of being involved in the offences, Article 3 (1), particularly in transit States and appropriate countermeasures;*
- C. Monitoring of the import and export of narcotic drugs, psychotropic substances and the substances;*
- D. Detection and monitoring of movement of proceeds and property derived from, and narcotic drugs, psychotropic substances, and the substances, and instrumentalities used or intended for use in, the commission of offences referred to in Article 3 (1);*
- E. Methods used for transfer, concealment or disguise of such proceeds, property and instrumentalities;*
- F. Collection of evidence;*
- G. Control techniques in the free trade zones and free ports;*
- H. Modern law enforcement techniques (detection and fight)*

Normally, training without selection is fruitless. The selection of competent officers to pass training courses and selection of the most experienced officers who have successfully completed the courses should be considered as one of the objectives for training programme.

Second, the required equipment and their use by officers in carrying out the “controlled delivery” operations should be suitable for the police techniques and modern methods of offence detection, and be chosen from the sophisticated equipment with new technology. Familiarization of law enforcement officers with this equipment should be foreseen in the training programme. Such equipment includes detecting machines for concealment in the vehicles, luggage carried by passengers, postal parcels, technology verifying the type of narcotic drugs or psychotropic substances or pre-made components, telecommunication means

and telephone tap and quick exchange of information, photographing and filming cameras, etc.

Third, a proper management both in the planning phase including provision of needs, requirements and selection of experienced officers, and in the phase of directing the operations including data processing, and making timely and prompt decision will ensure the officers' success in a series of operations that they should perform their functions one by one under a centralized and united command. Article 11 (2) of the Convention provides that **“decisions to use controlled consignment should be made on case by case.** In each case, the two parties should address, as may be necessary, the operations based on mutual understandings and arrangements. This matter also includes the operations' costs and property and proceeds derived from the narcotic drugs offences.

Also, in the agreements between two States, the legal matters including the exercise of jurisdiction should be settled before the conflict of jurisdiction of judicial authorities creates problem. Making the officers familiar with the State regulations within which the controlled delivery operations are undertaken, is also the task of operations management. In cases when the entry of officers in another State's territory is necessary, subject to agreement between two States, the officers encounter new tasks that are defined based on that of State's regulations. It should be pointed out that preservation of States sovereignty and independence pursuant to 1988 Convention is not only the most important condition but also the basis for mutual cooperation among the law enforcement, judicial and administrative authorities. This view is confirmed by the three paragraphs of Article 2 of the Convention, as quoted below:

1. The purpose of this Convention is to promote cooperation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having international dimension.

In carrying out their obligations, Parties to this Convention shall take necessary measures including legislative and administrative measures in conformity with the fundamental provisions of their respective domestic legislative systems

2. The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of the sovereign equality and territorial integrity and that of non-intervention in the internal affairs of other states.

3. A Party shall undertake in the territory of another Party the exercise of jurisdiction and performance of functions, which are exclusively, reserved for the authorities of that other Party by its domestic law.