

## Drugs policy in the Netherlands

### Continuity and change

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## 1. Introduction and definition of problem

### 1.1. The history of drugs policy in the Netherlands\*

In the 1960s and 1970s the use of drugs such as cannabis products and opiates increased considerably in Western Europe and North America and there were fears in many quarters that this would result in an explosive health problem. It was partly for this reason that new international and national policy frameworks were established during this period to combat drug abuse. Since then, levels of consumption of the various types of drugs in the countries in question have fluctuated considerably; shifts in consumption from one drug to another have also occurred. In some countries, total use has increased; in others, including the Netherlands, drug consumption appears to have stabilised at the level it reached around 1980.

The use of cannabis and opiates has not fallen dramatically, let alone been eradicated. For those who hoped that firm government policy would achieve this the results are disappointing. However, given previous international experience of tackling markets in illegal products or services it seemed likely that government intervention would have only a limited effect. It is partly for this reason that the policy pursued in the Netherlands has always had the more modest objective of bringing or keeping the use of dangerous drugs, as a health and social problem, under control. In terms of this objective drugs policy in the Netherlands has achieved some success. The use of the drugs in question has not become much more prevalent in the Netherlands than it was in the 1970s and from a medical point of view consumption has also not become a more serious problem. The use of nicotine and alcohol takes an incomparably higher toll on people's health in the Netherlands (as indeed it does in other parts of the Western world) than the use of all the drugs covered by the Opium Act together\*.

Following the recommendations of the Working Party on Narcotics (1972)\*, the government of the day saw no reason to base its policy on the idea that any use of the drugs concerned in itself represented an unacceptable risk to society. Whether or not such a risk existed would depend partly on the circumstances in which the drugs were used and the extent of their use. It was in the light of these factors that the prevention and control of the risks of drug use to society and individuals were made the primary objective of policy.

This drugs policy has never been amended\*. It means that the government's role is to prevent young people in particular from unthinkingly starting to use drugs without knowing enough about them or under the influence of other people, and to make medical and/or social assistance available to drug users with problems, in order to alleviate their plight (harm reduction).

On the basis of scientific criteria, legislation in the Netherlands distinguishes between drugs which present an unacceptable risk to health and cannabis products, the risks arising from which are considered less serious (i.e. between hard and soft drugs). The Dutch view is that the interests which have to be protected by the criminal law are primarily health interests. In the Netherlands drugs policy is therefore differentiated according to the seriousness of the potential damage to health which may be caused by the use or abuse of the drug in question.

As in many other countries, the use of drugs in itself is not an offence in the Netherlands\*. Users of hard drugs are regarded as patients rather than criminals. Accordingly, a comprehensive, differentiated set of preventive measures and care facilities has been established. The judicial authorities have always followed the principle that drug addicts should undergo medical treatment rather than serve a custodial sentence. Despite the sometimes disappointing results of treatment and/or the recidivism that occurs, this standpoint has been firmly adhered to and new ways of putting it into practice have constantly been sought.

Dutch policy on drug addicts aims to limit the risks and damage caused by drugs and so to ensure the integration of drug users in society. Prevention, out-patient care and residential care are all in the hands of experts who work within professionally managed organisations. The Netherlands spends approximately NLG 160 million per annum on the care of addicts (including clinics and out-patient care). This is a large figure compared with what other countries spend. The treatment concerned is not aimed exclusively at ensuring the total abstinence of all addicts (i.e. that all ex-addicts keep away from drugs altogether); the intention as far as certain closely defined target groups are concerned is to improve their medical condition and the way they function in society. This can be achieved, for example, by providing good medical care, by providing methadone, by operating needle exchange systems and by providing various kinds of day and night reception centres.

As elsewhere, however, drugs policy in the Netherlands is also aimed at raising the threshold for the use of hard drugs as much as possible by the strict use of the criminal law. In the Netherlands as elsewhere the purchase of hard drugs is illegal and the detection of criminal organisations involved in trafficking in any drugs (hard or soft) has for many years been a top priority of the Dutch criminal investigation authorities. The considerable efforts made by the investigation and surveillance services are apparent, for example, from the large quantities of drugs which have been seized (cf. section 5.2). The main elements of the policy are thus in line with international models. Production and trafficking are dealt with severely under the criminal law, in accordance with the UN Single Convention. Each year the Public Prosecutions Department deals with an average of 10,000 cases involving infringements of the Opium Act.

The work involved in the detection and prosecution of offenders imposes considerable burdens on the police and the judiciary. In monetary terms NLG 270 million a year is spent on tackling drug trafficking. At least a further NLG 370 million is spent tackling the crime committed by drug addicts (often property offences). The capacity of the Dutch prison system has been increased in the last ten years from five thousand to twelve thousand places. It is no exaggeration to say that efforts to curb drug trafficking using the criminal law are the most important reason for the increase in the prison population.

While the Netherlands government regards the use of soft drugs as risky, the control strategy is more differentiated than that for hard drugs because the risks are less serious. As in a number of states in the United States and certain other places, the possession of a small quantity of soft drugs for personal use has been decriminalised; that is to say that it is classified as a summary offence rather than an indictable offence. The legislation thus emphasises that the use of the criminal law to tackle the

use of soft drugs should not result in the stigmatisation and social marginalisation of users.

Dutch policy on the use of cannabis is based on the assumption that people are more likely to make the transition from soft to hard drugs as a result of social factors than because of physiological ones. If young adults wish to use soft drugs - and experience has shown that many do - the Netherlands believes that it is better that they should do so in a setting in which they are not exposed to the criminal subculture surrounding hard drugs. Tolerating relatively easy access to quantities of soft drugs for personal use is intended to keep the consumer markets for soft and hard drugs separate, thus creating a social barrier to the transition from soft to hard drugs.

After a while the practical result of this principle was that the judicial authorities came to tolerate the sale of soft drugs in youth clubs by bona fide house dealers. This was followed by the establishment of "coffee shops", where soft drugs are sold commercially to people who have reached the age of majority.

In almost all countries which suffer from drug problems the police and judicial authorities are forced to set priorities in the detection and prosecution of offenders who have committed drug-related crimes. Large-scale, cross-border trafficking in hard drugs has the highest priority everywhere, the lowest being assigned to small-scale trafficking in and the possession of soft drugs. This system of priorities is shared, for example, by large parts of the United States of America, Germany, the United Kingdom and France. Only rarely are people still prosecuted in these countries for the possession of small quantities of soft drugs. To all intents and purposes the possession of a few grammes for personal use is no longer an offence there.

In Germany, for example, in accordance with the case law of the Federal Constitutional Court in Karlsruhe (9 March 1994) a person will no longer be prosecuted on the grounds of having committed an indictable offence if he or she is found to be in possession of a quantity of cannabis deemed to be for personal use. Soft drugs are bought and sold and used on a large scale in and near places of entertainment frequented by young people in the big cities in all the above-mentioned countries. Soft drugs are readily available to young people in towns and cities all over the Western world\*. As stated above, to protect these users from criminal circles, small-scale trafficking in "soft" drugs which meets certain strict criteria is also given such low priority as regards detection and prosecution that essentially no action is taken against it in the Netherlands. In other places too the buying and selling of small quantities of soft drugs is allowed to go on more or less unhindered (in neighbouring German Länder for example) but, in accordance with national principles of criminal procedure this low priority is set out in the Netherlands in detailed published guidelines from the Public Prosecutions Department.

This official policy of tolerating soft drugs does not mean that the Netherlands has a more lenient, let alone a more positive attitude to the use of soft drugs; rather it is based on the consideration that tolerating the sale of soft drugs under clear conditions helps prevent the use by young people of more dangerous drugs. The Netherlands' policy on coffee shops is also based on the idea of harm reduction.

## 1.2. Current situation and evaluation

In assessing drugs policy in the Netherlands the main consideration must be the results achieved in practice. Because of the illegal nature of drug use, statistics on it depend on estimates compiled on the basis of information from the police and care agencies, among others. However, there is an unknown "dark number" of drug users who have no contact with any official body. Estimates of the real extent of drug use are often based in part on population surveys. Those questioned may not always admit to drug use, however, again because of its illegality. Moreover, the most problematic groups in particular are often under-represented in the sample populations used.

In general, it can be assumed that the less illegal the use of a drug is, the more complete the picture will be which the authorities and researchers have of such use. As stated previously, the use of soft drugs was decriminalised in the Netherlands in the 1970s. It is true that the use of hard drugs does involve some illegality but care is easy to obtain throughout the Netherlands. Care agencies assume that they have regular contact with at least two-thirds of all drug addicts. As a result, the authorities in the Netherlands has a much better picture of the extent and nature of drug use than do those in other countries.

If one considers the available statistics on the use of drugs in various countries against this background, the following picture emerges.

The extent and nature of the use of soft drugs in the Netherlands does not differ from the pattern in other Western countries\*. In recent years use has once again been considerably higher in other countries (including the United States) than in the Netherlands. This is also true as far as use among minors is concerned\*. The decriminalisation which took place in the 1970s did not lead to an increase in the use of soft drugs among young people then either. The Dutch objective of protecting young adults who wish to use soft drugs at a certain stage in their lives from the world of hard drugs has also proved to be a realistic one. Only a very small proportion of the young people who use soft drugs make the transition to hard drugs.

The view held by some that the use of cannabis products alone causes a physiological or psychological need to use hard drugs as well - what is known as the stepping stone theory - has been belied by actual developments in the Netherlands\*. Dutch young people who use soft drugs are perfectly well aware of the greater dangers of using hard drugs such as heroin and have no great desire to experiment with them. In the Netherlands the percentage of soft drugs users who also go on to use hard drugs is relatively low. In the light of these findings the stepping stone theory should be regarded as one of the many myths in circulation about the use of drugs, though one which under certain circumstances could become a self-fulfilling prophecy: by treating the use of cannabis products and hard drugs such as heroin and cocaine in the same way may in fact make it more likely that cannabis- smokers will come into contact with hard drugs. Moreover, equating the one with the other undermines the credibility of the information provided about drugs to young people.

No matter how much opinions on drugs policy may vary, there is a broad consensus on the ultimate criterion according to which the effectiveness of any national drugs policy should be measured. This is of course the number of hard drug addicts, especially the number of hard drug users under the age of 21, and changes in those numbers.

Tabel 1 provides an overview of the estimated number of hard drug addicts in various countries.

International comparative prevalence figures on hard drug addicts			
	Number of Addicts	Inhabitants (millions)	Per 1000 of population
Netherlands	25,000	15.1	1.6
Germany	100,000/120,000	79.8	1.3/1.5
Belgium	17,500	10.0	1.8
Luxembourg	2,000	0.4	5.0
France	135,000/150,000	57.0	2.4/2.6
United Kingdom	150,000	57.6	2.6
Denmark	10,000	5.1	2.0
Sweden	13,500	8.6	1.6
Norway	4,500	4.3	1.0
Switzerland	26,500/45,000	6.7	4.0/6.7
Austria	10,000	7.8	1.3
Italy	175,000	57.8	3.0
Spain	120,000	39.4	3.0
Greece	35,000	10.1	3.5
Portugal	45,000	10.0	4.5
Ireland	2,000	3.5	0.6

Sources: Bosman and Van Es (1993); Bless, Korf, Freeman, Urban drug policies in Europe 1993 (1993); WHO regional office for Europe, European summary on drug abuse, first report: 1985-1990 (1992); Commission of the European Communities, Second Report on drug demand reduction in the European Community (1992); Bossong (1994); Van Cauwenberghe et al. 1993 (Belgium).

Various experts estimate that there are about 25,000 hard drug addicts in the Netherlands\*. This is equivalent to 0.16 percent of the population. As stated above, this estimate is reliable, partly because in the Netherlands care agencies manage to maintain contact with a relatively high proportion of drug addicts.

It is not possible to make a clear comparison with estimated numbers of hard drug addicts in other European countries because of methodological uncertainties but it is likely that the "dark number" is higher in certain other countries, where care agencies reach fewer addicts, than it is in the Netherlands. The estimates which do exist, however, suggest that the number of hard drug addicts per 100,000 inhabitants in the Netherlands is low in comparison with the European average of 2.7 and indeed considerably lower than in France, the United Kingdom, Italy, Spain and Switzerland, for example. Annex I contains an overview of the estimated numbers of drug addicts in a number of European countries, according to a number of sources. All estimates suggest that the number of addicts in the Netherlands is relatively low.

What is particularly pleasing is that in the Netherlands the number of heroin users under the age of 21 is relatively low, even among vulnerable groups, and has continued to fall in recent years\*. Nor has the use of cheaper forms of cocaine made any real inroads as was feared a few years ago on account of developments in the United States and elsewhere\*.

Increases in the numbers of young users are probably partly prevented by the "loser" image which has come to be attached to heroin addicts. The presence of older addicts who are in a serious state of degeneration in some socially disadvantaged neighbourhoods constitutes compelling propaganda against the use of heroin. The lack of repressive action by the police against addicts purely on account of their drug use and the ease with which they can obtain the substitute methadone prevent the lifestyle of addicts being seen by young people as an expression of social or cultural rebellion.

The number of fatalities resulting from drugs overdoses in the Netherlands is small. According to a report by the United Nations, 42 people died in the Netherlands from drugs-related causes in 1991. The figure for Belgium was 82, Denmark 188, France 411, Germany 2,125, Italy 1,382, the United Kingdom 307 and for Spain 479. In the United States there were 5,830 such deaths\*. The number of deaths from drugs per 100,000 of the population is thus at least twice as high in other countries as it is in the Netherlands and here, unlike in other parts of the world, it is not rising.

The Netherlands also has a relatively small number of people suffering from AIDS among its drug addicts. In southern European countries in particular, the percentage of drug users who are infected is considerably higher. The accessibility of care services, including needle exchange systems, and the broad public information campaigns which have been conducted, have resulted in considerable risk reductions in intravenous drug use. The proportion of drug addicts in the total HIV positive population is relatively small\*. Research has shown that almost 60% of heroin-addicted prostitutes now use condoms, as against 20% in 1986\*. This also has the effect of helping to prevent the spread of AIDS outside high risk groups.

The Netherlands thus also compares favourably with neighbouring countries as regards mortality and morbidity among addicts. The harm reduction policy, including the large-scale methadone programmes and needle exchange systems, which was started in the Netherlands in the 1970s, has been relatively successful. It has also helped limit the spread of the AIDS epidemic.

All in all, it may be legitimately concluded that the Netherlands' policy on drugs has had some practical success in health terms.

### 1.3. Complications and new trends

Despite the fact that in international terms the situation as regards public health is not unfavourable, the use of drugs and everything that goes with it constitutes an acute, major social and administrative problem in the Netherlands as elsewhere. In tackling this problem three complications arise: the nuisance problem, the involvement of organised crime in drug trafficking, and criticism from abroad of imagined and real external effects.

Firstly, a small proportion of hard drug addicts cause a considerable nuisance to their fellow citizens. They commit a large number of property offences, in order to obtain the money to buy drugs. Contrary to expectations, the fact that methadone is easily obtainable as a substitute has scarcely improved the situation at all. Approximately twenty percent of addicts have an extremely unconventional lifestyle, in which living on the streets, multiple drug use and crime form mutually reinforcing

elements\*. The sale of drugs, drug-related crime and certain types of anti-social behaviour by addicts, such as throwing away used needles in public places, mean that the tolerance levels of residents in socially disadvantaged neighbourhoods in the big cities in particular are chronically exceeded. In some cases this has resulted in residents taking the law into their own hands by, for instance, removing drug addicts from their neighbourhood by force (and/or closing the street to French drug tourists).

Of course, the use of drugs can never excuse damage and nuisance to other people. The government must set limits to the criminality of and nuisance caused by some addicts, irrespective of the objectives of its drugs policy. Partly because the size of the target group makes it a manageable one - about 5,000 addicts indulge in extremely anti-social behaviour - the government regards it as its duty to achieve results in this area in the short term and thus to provide some prospect of a permanent solution to this problem.

The residents of some municipalities have also complained about the nuisance caused by the presence of coffee shops, such as the attraction of large numbers of noisy visitors (including some from abroad) indulging in anti-social behaviour\*. The nuisance caused by coffee shops is different from that caused by the hard drugs scene. In part it is the same as that caused by catering establishments in general, but in some municipalities residents living near coffee shops are subjected to excessive nuisance, partly because of drug tourists from abroad. There is no justification at all for this. These undesirable side-effects of the policy on coffee shops are undermining public support for the policy and for this reason too they must be eliminated. This is particularly true in the case of nuisance caused by bars licensed to sell alcohol where, in contravention of the local authority policy on catering establishments, cannabis is also sold. Strong measures will also have to be taken against coffee shops where illegal activities are conducted, such as trafficking in hard drugs, arms trading or handling stolen goods. The limits to official toleration must be more stringent.

The second complication is the rise of criminal organisations involved in the supply and sale of drugs. Although by definition there are no exact figures as regards such organisations, there is no doubt that professional criminals involved to some extent or mainly in drug trafficking have been able considerably to expand their activities over the last ten years, both internationally and in the Netherlands. It is estimated that worldwide profits of some 500 billion guilders are made from drug trafficking each year\*. Estimates of the annual turnover of hard and soft drugs in the Netherlands vary somewhat. It appears that the estimate of NLG 5.5 billion per year made in the policy document "Georganiseerde criminaliteit: dreigingsbeeld en plan van aanpak" (Organised Crime: Analysis of the Threat and Plan of Approach) (Parliamentary papers II 1992-93, 22838, no. 1) should now be regarded as a minimum estimate. More up-to-date estimates are of NLG 10 billion\*.

The increasing economic importance of organised crime is also evident from the fact that in 1994 2,600 reports were made by financial institutions to the Unusual Transactions Disclosures Office ("Meldpunt Ongebruikelijke Transacties") which were then passed on to the judicial authorities as "suspect". About half of these suspicious transactions were related to drug trafficking.

The increasing activity and economic power of what are in many cases international criminal organisations are a threat to democracy and the rule of law and naturally evoke a response from the government, for instance in the form of greater powers and extra resources for the police and the judicial authorities. The banks and relevant professions are also brought in to help in the prevention and detection of money laundering. The amounts of money involved have reached such enormous proportions that the integrity of certain parts of the economy is increasingly being put to the test. One factor which complicates policy is the fact that money movements pay less and less heed to national frontiers.

The scope of measures taken under the criminal law and of preventive action is gradually increasing. This development inevitably means that companies and individuals are asked to make sacrifices, in the form of additional burdens and limitations to civil rights and freedoms, in the public interest. In order to protect themselves from this joint offensive, criminal organisations in turn attempt to corrupt police officers, members of the judiciary and bank staff, as well as those in the professions. This then leads to the introduction or tightening up of codes of ethics. The vicious circle which has arisen around drug trafficking imposes ever greater costs on society. In some parts of the United States prison costs are such a burden on the government budget that other public provisions, such as education, are at risk.

According to some critics the cost of drugs policy is no longer in any way proportional to the benefits it produces. Looked at in this light, the parliamentary inquiry which is currently being conducted into such issues as the admissibility of the detection methods used in investigating criminal organisations is also concerned with certain controversial side-effects of the policy on drug trafficking.

The third complication is the effect Dutch policy has in other countries. The sometimes fierce criticism of that policy from foreign governments is in part due to an inadequate understanding of what is going on. This means that the background to and objectives and actual effects of the Netherlands' policy on drugs must be communicated more effectively to an international audience. Criticism also arises on account of fundamentally different views on the role of government as regards the use of substances which may pose risks by adult members of society. Such differences are also revealed in the policies of European governments in respect of the regulation of markets in alcohol and cigarettes. There are also differences of opinion as regards the medical risks of certain drugs.

The Netherlands' view that cannabis products entail less serious health risks than hard drugs and thus require a different approach, is not even shared by all the countries of the European Union. Recent reports from abroad by authoritative experts on drugs support the distinction made in Dutch law between soft and hard drugs\*. Criticism based on views about the health risks for which no support can any longer be found in the scientific literature can of course not be grounds for amending Dutch policy. The response should rather be exchange programmes involving scientists and government officials.

The ideological nature of some foreign criticism should not be allowed to conceal the fact that the Dutch policy does entail problems which affect other countries. The

Netherlands and the Dutch are indisputably responsible for a more than proportional share of trafficking in certain drugs.

The police estimate that there are about a hundred criminal organisations active in the Netherlands, the vast majority of which are involved in drug trafficking\*. Residents of the Netherlands of foreign origin, who maintain close links with criminal organisations in their country of origin, are heavily over-represented in those criminal organisations engaged in trafficking in hard drugs. Organisations comprising primarily residents of Dutch origin traffic mainly in soft drugs. Supplying the home market forms only a small part of the activities of these organisations. They are also involved in the transit of soft drugs through the Netherlands and in international trafficking. Lastly, the Netherlands is an important country of production for amphetamines and ecstasy.

Part of the reason for the Netherlands' involvement in drug trafficking stems from the country's geographical position. The Netherlands is the main gateway to Europe for a great many goods. Moreover, partly because of its cosmopolitan atmosphere, Amsterdam in particular is an international meeting place. The use of the existing infrastructure for drug trafficking cannot entirely be prevented, as was pointed out in 1985 in the policy document on society and crime (Samenleving en Criminaliteit).

The Netherlands government puts a great deal of effort into the detection and prosecution of international drug trafficking via Dutch ports and Schiphol airport. In the years ahead there will be greater participation in international investigations, partly as a result of the establishment of a national investigation team. However, given the volume and speed of the flow of goods, it will never be possible to make the port of Rotterdam, for example, completely free of drugs, any more than any other international port.

The governments of some neighbouring countries are concerned about the cross-border effects of Dutch policy. The bones of contention are in particular the relatively low prices at which it has been possible to buy certain hard drugs in the Netherlands in recent years (though the same is now also true in Belgium), and the export of supplies of soft drugs bought in coffee shops in the Netherlands.

The lower prices on the illegal heroin market cannot simply be attributed to Dutch policy on production and supply. Contrary to what is sometimes believed abroad, considerable efforts go into the detection of trafficking in hard drugs in the Netherlands, as explained above, and those convicted of this offence are punished severely. The rapid expansion of Dutch prison capacity bears witness to this. The crucial factor is the massive supply of hard drugs on the international market, as has been confirmed by regular reports from the UN. The consumer market price is in part determined by local demand for certain drugs. As in a number of other countries, so in the Netherlands the popularity of heroin has declined quite considerably recently, while at the same time the existing population of older addicts is supplied on a large scale with substitute substances such as methadone.

It may be assumed that the falling demand for heroin has pushed prices down. This is not to deny that the low prices do attract foreigners seeking out hard drugs; for that reason, among others, they are a cause for concern. Detection efforts in respect of

hard drugs in particular, including ecstasy, must be stepped up. Policy intentions in this regard are discussed in detail in chapter five of the present policy document.

It is undeniable that in municipalities along the borders the coffee shops do attract foreign customers. Where countries have different policies on the sale of strong drink or other goods, such as weapons, there is also cross-border traffic specifically geared to those goods. While differences in policy exist such "smuggling" cannot entirely be prevented. Now that it has been decided in the framework of the Schengen Agreement that existing differences between the states concerned as regards their drug policies will be respected, these side-effects must to a certain extent be accepted.

However, under the Schengen Agreement the Netherlands government took upon itself the obligation to do all it could to combat the undesirable international side-effects in the implementation of its own policy\*. The Netherlands government may be expected to do everything within its power to keep the export of soft drugs bought in coffee shops to a minimum. The Netherlands' neighbours have every right to call it to account in this regard.

#### 1.4. Principles of future policy

Given the relatively good results which have been achieved, we do not believe that there is any reason for a fundamental re-examination of drugs policy in the Netherlands, which is primarily geared to controlling the harm done to people's health. Equally there is no need for any major amendments to it. Radical amendments might even have the reverse of the intended effect and harm health. However, the three complications discussed above - the nuisance problem, the involvement of organised crime in drug trafficking, and foreign criticism of certain external effects of the policy - do mean that a careful analysis of the problems which arise from the way in which the policy is implemented must be carried out, and adjustments made where necessary. It was agreed in the government policy accord that the relatively successful Dutch approach to the drugs problem should be continued, although new nuances should be introduced and new avenues explored. The control of nuisance was to receive particular attention.

The policy also needs to be amended in line with the constantly changing circumstances as regards both supply and demand in the various drugs markets. Changes in the composition and social background of user groups and the arrival of new drugs mean that new measures are required. The stabilisation of the heroin addict population in the Netherlands now means that care for addicts must be directed at older clients with serious physical and psychological problems. As has already been said, the popularity of heroin among young people has declined enormously; at the same time, the number of people addicted to primary cocaine appears still to be small. "Designer drugs", such as ecstasy, on the other hand, are increasing in popularity, both at events such as raves and elsewhere. These drugs require a different approach.

Finally, the attitude of the general public to drug addicts also appears to have changed. On the one hand, people have to some extent got used to certain forms of drug use; on the other, drug addiction is less and less regarded as an excuse for causing damage or harm to others. People are now less tolerant of crime, nuisance and other anti-social behaviour from drug addicts.

Precisely because drugs policy in the Netherlands is so pragmatic we must be very open, critical and flexible in our response to these changes. Appropriate - that is to say realistic - answers must be found to the complications which have arisen and to the new trends.

As part of the debate in the Netherlands on the complications arising from drugs policy, it has been suggested by various commentators that the sale of both soft and hard drugs should be largely or even totally legalised\*. The government has consulted on the desirability and feasibility of the legalisation proposals and has reached the following conclusions.

In accordance with Dutch views on the harmfulness of the various forms of drugs, a distinction should be made between the legalisation of hard drugs and that of soft drugs. The harmfulness of hard drugs means that there must be overwhelming objections to any policy amendment which might result in an increase in the number of users, on account of the health risks. Those in favour of legalisation are too inclined to ignore this objection. Although we cannot be certain about this, there must be a danger that legalisation, irrespective of how it was carried out, would increase the availability of the drugs in question and act as a signal to young people that such drugs were not so harmful after all. There would then be a risk that more young people would start to use hard drugs and so become addicted. The government is not prepared to take that risk. There are other arguments against legalisation too. After any form of legalisation it is probable that prices on the legal and any remaining illegal markets for hard drugs in the Netherlands would be considerably lower than in neighbouring countries. In such a situation it is inevitable that the "drug tourism", which is already so bitterly resented by the governments of neighbouring countries and indeed by local authorities in the Netherlands, would increase. The nuisance caused by drug addicts would not then fall but might even increase further.

It must also be feared that the aim of reducing criminal drug trafficking by selling hard drugs legally would turn out to be unattainable if it was only in the Netherlands that such drugs were legalised. At present, supplying the domestic market in the Netherlands is only one of the activities of the large criminal organisations. While a lucrative market for illegal drugs continues to exist elsewhere in Europe, the Netherlands, as a centrally situated transit country, will continue to have to deal with illegal drug trafficking by Dutch and international criminal organisations, and the need to take measures to combat this. Any advantages of legalisation would probably only emerge if other countries followed the same path. Moreover, it is anything but certain that even in that situation the criminal organisations would become less active. Many would simply shift their criminal activities to other sectors. In short, the government rejects the idea of legalising hard drugs.

The Netherlands believes that the health arguments play a role in respect of soft drugs too but they are less serious than in the case of hard drugs. It has been demonstrated that the more or less free sale of quantities of soft drugs for personal use in the Netherlands has not given rise to levels of use significantly higher than in countries which pursue a highly repressive policy in this regard. The difference lies in the fact that cannabis users - often young people - are not regarded as criminals in the Netherlands. The effects of using cannabis are less harmful than those of using hard

drugs. Nevertheless, there are dangers attached which can affect young people in particular.

The obvious comparison is with substances such as nicotine and alcohol and this will have to be reflected in policy. We endeavour to curb the use of nicotine and alcohol by limiting supplies to a certain extent and by discouraging people from using them through information campaigns and in other ways, but there is no general prohibition. Nor do we consider it desirable for all coffee shops to be closed, but the complete legalisation of the sale of cannabis would be equally undesirable. Policy will aim to discourage the use of soft drugs as far as possible, for example by limiting the number of coffee shops, imposing a minimum age for persons wishing to buy soft drugs, prohibiting the establishment of coffee shops near schools and by providing more public information on the negative effects of cannabis.

Against this background, the preferred option might be a model in which supply was monitored by the state or strictly regulated in some other way. The analogy with the old opium monopoly of the authorities in the Dutch East Indies springs to mind. However, the introduction of any kind of permit system for the cultivation of cannabis would mean that it would have to cease to be a criminal offence - in other words, it would have to be legalised. After all, the Netherlands government cannot issue permits for or itself be involved in the commission of an offence.

As explained in annex III to this policy document, experts in the field of international criminal law are of the opinion that the international agreements ratified by the Netherlands leave no scope whatsoever for legalising the sale of drugs for recreational purposes. The 1988 UN Convention in particular compels states party to it to make the cultivation of cannabis a criminal offence. Under the terms of the Schengen Agreement the UN opium conventions must be complied with in full. Other states party to those agreements and the international organisations concerned cannot be relied upon to be accommodating in their interpretation of the Netherlands' international obligations. Legalisation would require the Netherlands not only to denounce the UN conventions in question, but also the Schengen Agreement, which requires that those conventions be adhered to. The introduction of a permit system is a route which cannot be followed on account of current obligations under international law. At the same time, it must be remembered that it is neighbouring countries which would be affected by the external effects of such a policy. For example, it is to be feared that some of the regulated supplies would always illegally be siphoned off to other countries. Legalisation of the cultivation of, trade in and sale of soft drugs would also, because entrepreneurs would no longer run any risk of prosecution, result in still lower prices on the Dutch market, which would in turn result in more drug tourism. For the municipalities along the borders that too is likely to be a prospect which is anything but attractive.

Both because of international obligations and the high level of mobility of people within the European Union, which continues to increase, the degree of availability of drugs in the Member States can only continue to differ within certain limited margins. The debate on the legalisation of drugs has thus become an intrinsically European one and one which must also be pursued within the European framework. The Netherlands can of course play an active role in that debate, for example in cooperation with certain of the German länder and in response to the above-

mentioned report from the French Henrion committee. We will continue to do all we can in this context. Given the current situation, however, the government does not believe it would be acting responsibly if it were to go it alone and legalise the supply of soft drugs while neighbouring countries did not. We do believe, however, that the time has come for clarification of the limits within which people running coffee shops may carry on their activities, taking into account the options available under international law\*. The coffee shops have justified their existence in the Netherlands over the last twenty years and now need to be regulated. This does not only mean refining the Public Prosecutions Department guidelines on the detection of offences and prosecution of offenders under the Opium Act, but also the introduction of administrative regulations\*.

### 1.5. Conclusions

Improving the current policy, which from the health point of view has been successful, is preferable to a radical shift in policy with all the uncertain advantages and disadvantages that might involve. Within the parameters set by international agreements, policy on drugs in the Netherlands will continue to be primarily aimed at prevention and harm reduction. On the basis of a careful evaluation of the results which have been achieved and of the current problems, proposals will be set out in this policy document for changes to policy.

The nuisance caused by Dutch and foreign addicts must be reduced by effective means as quickly as possible. This will require coordinated efforts from administrators, the Public Prosecutions Department, care services, the police and aliens departments.

Severe measures must be taken where necessary.

The rise of organised crime constitutes a threat to democracy and the rule of law. The Dutch constitutional state must continue, both domestically and internationally, vigorously to defend itself against this threat, without of course denying its own normative principles. The detection and prosecution of drug traffickers will continue to be a top priority for the Dutch police and judicial authorities.

New and different kinds of care will be provided for addicts, partly because the problems have changed - e.g. the aging of heroin addicts and the emergence of "designer drugs".

The following chapters discuss policy on the use of hard drugs, the necessary changes in care for addicts, policy on soft drugs, and the enforcement of the Opium Act by the criminal-authorities. The policy document closes with a short summary of the most important conclusions and policy intentions.

## 2. Policy on the use of hard drugs

### 2.1. Amount and nature

As stated above, the number of heroin addicts in the Netherlands is estimated to be about 25,000. This figure rises a little, to 27,000, if account is taken of what is probably a fairly large number of addicts who do not come into contact with the care services or the judicial authorities at all. As already pointed out, these estimates are by no means high in comparison with other European countries and even less so in comparison with the United States (cf. annex I).

The number of people addicted to primary cocaine has increased slightly in recent years but is still small\*. The same can be said about the use of cheaper forms of cocaine.

Approximately 65 percent of addicts are in contact with care providers. It is estimated that three-quarters of the heroin users among these receive the substitute substance methadone on a more or less regular basis\*.

The use of ecstasy (MDMA) by school pupils has increased considerably in recent years. In 1992 3.3% of school pupils aged 12-18 had used ecstasy at some time. Use is overwhelmingly occasional and recreational\*. Certain groups of vulnerable young people, such as clients of the youth care services, use the drug more frequently\*.

The use of ecstasy can result in serious, acute damage to health, such as overheating and dehydration, which can even on occasion be fatal. Serious liver and kidney damage is also possible. Because of these risks, ecstasy is classified as a hard drug. Other, less well-known "designer drugs" can also pose health risks. Rapid developments in the field of psychopharmacology mean that new "recreational" drugs are constantly coming onto the market. A positive trend is that the users of these drugs are becoming increasingly critical consumers who wish to take as few risks as possible.

## 2.2. Policy on the use of ecstasy

Policy on ecstasy was set out in the memorandum on the subject issued by the Minister of Health, Welfare and Sport (Lower House 1993-94, no. 23760) and discussed with the Standing Committee for Health, Welfare and Sport on 29 October 1994 and 14 June 1995. In the memorandum the Minister expressed her concern about the trend in the use of ecstasy and announced a number of policy measures. These comprise administrative measures, measures to enable the supply of designer drugs to be monitored closely and critically, further research into the harm such drugs can cause, and more public information.

In view of the fact that ecstasy and related drugs are widely used at raves and other large-scale events, the Minister has since drawn up a guide for municipal policy on such events (Stadhuis en House [The town hall and raves], 1995). It explains what options municipalities have in attaching conditions to licences, in order to combat drug use and the consequences thereof as effectively as possible. As regards monitoring the market in these drugs, the current monitoring system is to be expanded. Further research into the harm caused by designer drugs is to start soon. Developments in the use of these drugs demand that those concerned with public information and prevention should adopt an alert and dynamic attitude and to this end expertise in the field of prevention is to be promoted; in autumn 1995 a number of information activities will also get under way. For further details reference should be made to chapter 3, section 2.

## 2.3. Crime, nuisance and addicts

The impression is sometimes given that responsibility for most nuisance and the vast majority of thefts and burglaries (often described as offences committed in order to acquire means of payment) lies with addicts, and that all addicts provide for themselves by committing criminal offences. This impression is far from accurate.

Some property offences can be regarded as opportunistic. Some are committed by adolescents who are poorly integrated into society, but by no means all of them are also drug addicts\*. In addition, illegal immigrant status\*, an addiction to gambling or, more generally, quite simply a luxurious consumption pattern which cannot be paid for from the offender's own resources, can just as easily result in this type of offence. The share of total crime - i.e. including that which is never solved - accounted for by drug addicts is estimated to be between 10 and 20 percent. There are a number of addicts who are particularly criminally active, who commit a great many offences (there is a great deal of recidivism) and who, moreover, often make no attempt to hide what they are doing; these people therefore come into contact with the police and the judicial authorities relatively often\*. Their higher level of recidivism means that they feature prominently in statistics on people suspected by the police of offences. It also means that more and longer custodial sentences are imposed upon them. This accords with the fact that at present about half of the prison population are drug addicts. However, this should certainly not be taken to mean that half of all crime is caused by drug addiction.

According to recent research, a third of property offences which are cleared up by the police in larger towns and cities are attributable to drug addicts. They are indeed responsible for as many as half of five common property offences, such as domestic burglary and theft from cars. Over the country as a whole the figures are somewhat lower.

According to research conducted in the Netherlands and abroad many drug addicts - some experts suggest as many as fifty percent - were already committing offences before they became addicted to drugs\*. As far as these people are concerned, crime and drug abuse are mutually reinforcing elements of an "unconventional" lifestyle. This probably also explains why it has been found that the provision of methadone to heroin addicts by no means always results in their ceasing to be involved in crime.

The share of crime accounted for by drug addicts comprises primarily common local offences: property offences such as domestic burglary, theft from cars, theft with violence, robbery in a public place and shoplifting (articles 310, 311 and 312 of the Netherlands Criminal Code)\*. The next most frequent are crimes of violence, such as assault, threatening behaviour, murder and manslaughter and arms offences; less frequent again are sexual offences, traffic offences and economic offences. Crimes of violence can result in part from the fact that certain drugs cause people to act in a less inhibited manner but in this regard the misuse of alcohol is a much greater cause of crime. Addicts are also involved in drug trafficking at street level; they play virtually no role higher up in organised/professional drug trafficking.

Like common property offences, the problem of nuisance too is often attributed to drug addicts in too generalised and undifferentiated a manner. In many towns and cities the homeless, alcoholics, illegal immigrants, gambling addicts and psychiatric patients are equally responsible for nuisance and for engendering feelings of insecurity in the general public. The problem of nuisance caused by drug addicts is part, albeit an important part, of the broader problem of having large concentrations of socially-marginalised people in big cities\*.

As part of the policy on the big cities the State Secretary for the Interior, acting also on behalf of the Minister for Social Affairs and Employment, the Minister for Economic Affairs, the Minister of Justice, the Minister of Housing, Planning and Environment and the Minister of Health, Welfare and Sport, has reached agreement first of all with the four biggest cities on a structural improvement in safety and the living and working environment in the most deprived neighbourhoods in particular. Similar voluntary agreements are being concluded with the other fifteen big towns. Central government has made a total of NLG 375 million available for the implementation of the plans over the next four years. The money is being used, inter alia, to finance integrated projects aimed at the social integration of young people at risk and neighbourhood projects to improve safety and the living and working environment in general. In addition, up to NLG 560 million has been reserved for an employment plan in the surveillance sector. This is evidence of the government's desire to encourage strongly the prevention of crime and nuisance in the big cities. It is to be expected that the agreements reached with the cities will serve as the foundations for an integrated approach to the problems of neighbourhood degeneration and nuisance.

The crime and nuisance problem caused by a few thousand addicts engaging in extremely anti-social behaviour on a persistent basis has now become so excessive that one way or another it must be tackled more effectively. The government considers it its duty to achieve visible results in this area in the short term since, on account of the small size of the target group, ways of doing so exist or must be identifiable.

Policy geared to detecting and prosecuting the small number of addicts who are highly active in crime could result in a decline in criminal nuisance. Such a policy will be promoted, in respect of addicts involved in crime and other groups. The care provided to tie in with this policy will also be adjusted, a subject which is discussed further in chapter 3, section 6.

#### 2.4. Administrative measures to combat nuisance

In order to reduce the nuisance and number of property offences for which addicts are responsible, local authorities, the police, the Public Prosecutions Department and care providers will have to seek to influence the behaviour of those concerned in a consistent manner. Anti-social behaviour will be punished consistently and appropriate behaviour will be rewarded wherever possible.

An office to which the general public can report nuisance has been operating in the Westerpark district of Amsterdam for some time and it has produced some positive results. In many cases complaints about nuisance can be solved through mediation. This initiative is being extended to cover the whole of Amsterdam and deserves imitation elsewhere too. We shall encourage the setting-up of such offices in more places, in close cooperation with the police, the municipalities and institutions concerned with the care of addicts. Such offices could also provide support in the collective preparation of legal proceedings and in the provision of evidence. Where action has to be taken, the establishment of these offices will enable it to be done more rapidly and in a more coordinated fashion. It will also make it possible to identify which addicts are responsible for most nuisance.

A great many separate agencies are involved in tackling the problem of nuisance. This requires firm management which can cut through bureaucratic red tape.

The four big cities have proposed setting up a joint task force on nuisance caused by drugs, in cooperation with those government departments most affected, to consist of officials with a broad remit. The latter would be responsible for ensuring that administrative agreements were implemented according to a strict timetable and in a coordinated fashion by all local and central government departments involved. This proposal to pool resources as regards implementation too where necessary is in accordance with the policy on the big cities the government has embarked upon and a start has already been made on putting it into effect.

The task force, which will comprise not only the government departments concerned and the four big cities but in any event also the Association of Netherlands Municipalities (VNG), representing the other municipalities, can be combined with the thematic group on safety which has already been set up to assist with policy on the big cities. The task force will be responsible for arranging for the implementation not only of the provisions on safety contained in the agreements with the big cities but also of the policy intentions and agreements on combating nuisance laid down in the present policy document.

The Steering Committee for the Reduction of Nuisance which was set up to implement the policy document on reducing nuisance caused by addicts (Lower House 1993-94, 22684, no. 12) and which is primarily engaged in ensuring innovation in the care of addicts, will become part of the above-mentioned thematic group, which will henceforth be known as the Inter-administrative Task Force on Public Safety and the Care of Addicts. The Task Force will establish working parties to carry out specific duties and will be provided with a properly equipped secretariat.

#### 2.5. Legal instruments

Nuisance caused by trafficking in and using drugs on the streets can be tackled through general local bye-laws, such as a prohibition on the assembly of more than a given number of persons, or on the use of the public highway for purposes other than that for which it is intended. The use of emergency powers should be limited to situations in which there really is an emergency as defined in sections 175 and 176 of the Municipalities Act. In this connection reference should be made to the government's standpoint on the study of municipal emergency powers, which was communicated to the chair of the Standing Committee on the Interior in a letter from the Minister of the Interior of 21 March 1995.

Trafficking in drugs - particularly hard drugs - in dwellings causes a great deal of nuisance to neighbours. It is often flats or apartments which are involved, where neighbours have to put up with addicts coming to the building, and may regard the accompanying phenomena as threatening. It is not always the tenant who is trafficking; sometimes a tenant may be pressurised (and rewarded with small quantities of drugs for his or her own use) into tolerating the trafficking; in other cases the premises may be sublet or used illegally.

Where the property belongs to private landlords, especially housing associations, civil proceedings may be instituted to evict the tenant causing the nuisance. In other cases, where the property is owned by someone with an interest in the drug trafficking

or by a speculator who is not interested in the well-being of his or her tenants, this may not be a solution. Prosecuting the dealer will often not prevent the trafficking being continued on the same premises by someone else.

Particularly in neighbourhoods where the social structure is decaying, there is a need to take steps to combat degeneration as a result of drug trafficking from private dwellings, no matter whether it is just beginning or has already reached a more advanced stage. Where residents report that this is happening, and the seriousness of their complaints can be confirmed by police investigations, it ought to be possible temporarily to seal a dwelling, until clients cease to seek out drugs there. At present this is only possible to a limited extent because under the provisions of article 10 of the Constitution a dwelling must remain accessible to its occupants and members of their family\*. Under the same provisions, formal legal grounds are required before a dwelling can be sealed because such action is desirable on account of nuisance caused by drugs. An amendment to the Municipalities Act is therefore being drafted to make the physical sealing of dwellings possible. The violation of privacy which this will entail can be justified by the need to combat nuisance caused by drugs and by the notion that people who allow drug trafficking to take place in their home have to a large extent themselves violated the private nature of the dwelling.

#### 2.6. Hard drug "tourism"

Some nuisance is caused by addicts from abroad who are illegally resident in the Netherlands and drug "tourists" from neighbouring EU states. Drug users come to the Netherlands from Germany, Belgium, France and other countries to procure and/or use drugs. Drug tourism occurs in various municipalities along the eastern and southern borders of the Netherlands, such as Arnhem, Venlo, Heerlen and Maastricht, and in a number of towns further into the interior of the country. Some of these people use the drugs they have bought in the Netherlands, others take some home for themselves or others.

Hard drug tourism often goes hand-in-hand with aggressive recruitment methods (drug runners) and with intolerable nuisance in residential areas and town centres.

The battle against drug tourism on what is known as the Hazeldonk route (Hazeldonk being a border crossing between the Netherlands and Belgium), which runs from Lille, through Antwerp, to Rotterdam, is being carried out in cooperation with the French and Belgian authorities. Activities are being directed at both drug runners and drug tourism.

In 1994 over 800 drug tourists and drug runners were arrested. The work involved cost the Dutch police approximately 35,200 man- hours. Drug running on sections of the motorway in Belgium and the Netherlands has declined but the phenomenon requires constant attention. Clamp-downs by the police impose a considerable burden on available cell capacity.

Police action has resulted in the problems shifting from one place to another, to other sections of the border and to other drug trafficking locations. The mode of transport involved also changed, with more use being made of the train.

In 1995 an integrated offensive against nuisance caused by drugs, code-named Victor, was started by the Rotterdam authorities. This too resulted in the sealing of

many premises and in the arrest of several hundred foreign drug tourists and drug runners. This repressive policy aimed at discouraging foreign drug tourism will be continued in the years ahead. At the same time, more priority will be given to investigating and prosecuting the leading figures behind the local consumer markets for hard drugs, that is to say the people who manage the drug runners and dealers in premises used for drug trafficking etc.

Consultations have been initiated involving the judicial authorities in Belgium and Northern France and members of the Dutch Public Prosecutions Department, with a view to tackling the problem in a more structural manner; proper cooperation between the police and investigation services is a primary concern. There has been an exchange of judicial officials and police officers between France and the Netherlands, which has improved cooperation between the police and judiciary in the two countries.

Policy is aimed at ensuring better coordination of the activities of the various police forces along the southern and eastern borders of the Netherlands in this field and at having the prosecution of foreign drug offenders transferred to the authorities in their country of origin wherever possible. Care of addicts and prevention are also discussed with neighbouring countries. Consultations will also be held on the compulsion and dissuasion projects (see below), which will involve addicts from abroad who have been found guilty of an offence in the Netherlands being given the opportunity of undergoing treatment in their country of origin as an alternative to serving a prison sentence in the Netherlands. In view of the limited capacity which exists, particularly in France, for the care of addicts, expectations should not be set too high in the short term, however. The Netherlands has submitted a proposal on tackling drug tourism as part of the European plan to combat drugs. Within the framework of that plan the European Commission has proposed the establishment of a Community programme of action on the prevention of drug addiction\*. This programme would provide an opportunity for improving care for addicts within the European Union.

The obvious measures which can be taken where foreign addicts commit criminal offences in the Netherlands, including small- scale trafficking and drug running, include detection, prosecution and sentencing or transfer of criminal proceedings, immediate deportation and, where possible, declaring those concerned to be *persona non grata* (section 21 of the Aliens Act). We believe that in exceptional circumstances it is also justifiable immediately to deport EU citizens (section 100, subsection 4, of the Aliens Act), who are entitled to reside in the Netherlands under European law and who generally enjoy special protection from deportation. Drug tourists from neighbouring countries who commit criminal offences and as a result cause breaches of the peace must take into account the likelihood that they will be deported immediately under the terms of the Aliens Act. Under no circumstances may they take it for granted that the Netherlands is prepared to become the main care centre for European heroin addicts. A stop will be put to the export to the Netherlands of other countries' drug problems.

### 3. Prevention and the care and treatment of addicts

#### 3.1. The importance of the renewal of care

The number of hard drug addicts in the Netherlands is stable and relatively low (cf. annex I). The average age of heroin addicts is over thirty and rising\*. There is

therefore no reason to assume that the policy on soft drugs has resulted in a large increase in hard drug addicts. The fact that according to various statistics, including those of the Amsterdam Municipal Health Service, young people in the Netherlands rarely start using hard drugs such as heroin or cocaine before the age of 20 rather suggests the opposite in fact\*.

The fact that there are virtually no young people under 20 using heroin or cocaine in the Netherlands is extremely gratifying, especially as experience shows that the later in life a person starts using a drug the greater the chance of their overcoming their addiction at some stage.

Care providers are now facing new developments, however.

As already described above, the nuisance caused by some addicts has increased. Secondly, care workers are having to deal with an increasingly large variety of extremely problematic target groups, all of whom need to be approached in a different way. Examples include mentally disturbed addicts, addicts whose lifestyles involve a lot of crime and/or aggression, addicts who are homeless and young addicts with no fixed address, foreign addicts and multiple drug users. What links these groups is the fact that their addiction is not an isolated problem but often bound up with other problems, such as psychiatric disorders and problems of lifestyle and/or social deprivation. Diseases such as TB and certain forms of hepatitis are increasingly common among addicts. Many of the addicts in these target groups are in a poor physical and mental condition, partly as a result of the long-term use of drugs and their chance of recovery is therefore small\*.

Dutch policy on hard drug addicts has for a long time been based on the principle that addicts should be treated as patients requiring treatment for their addiction, that treatment being geared to ensuring their abstinence from drugs in future. However, there are few scientifically sound, broad-based evaluations of the effectiveness of such treatment programmes in the somewhat longer term but what studies there are reveal that they have only a limited effect on the progress of the addiction process\*,\*.

Care aimed at limiting the damage caused while a person is addicted is reasonably successful, however. As a result, the health of Dutch addicts is relatively good, one current sign of which is the growing number of older addicts. Some Dutch addicts are also relatively well integrated in the community.

The disappointing results of some treatments aimed only at abstinence, and the emergence of new groups of addicts, whose addiction is only one component of a whole range of problems, mean that adjustments need to be made in the types of preventive work carried out and care provided. The government believes that the following innovations should have the highest priority:

- \* innovations in prevention;
- \* greater coordination of the various forms of care;
- \* differentiation of the range of residential care available;
- \* better coordination of residential and out-patient care with that provided in penal institutions (compulsion and dissuasion projects);
- \* experimental provision of heroin on medical grounds.

The innovations involved concern the care provided to all drug addicts and the prevention work aimed at vulnerable groups who are at risk of addiction. At the same time, particular attention will be paid to problematic addicts, who are often those involved in crime.

Each of the above-mentioned priorities in the renewal of care is discussed briefly below.

### 3.2. The renewal of care and prevention

The nature of the drugs problem is constantly changing. This has consequences for the care provided and for prevention work. New drugs, changing patterns of use and new risk groups impose considerable demands on prevention workers and require a dynamic approach. For example, the emergence of ecstasy and other similar drugs demands a different attitude and approach from the traditional activities engaged in in the past. Prevention can no longer be limited to traditional target groups, such as schoolchildren and, in respect of secondary prevention, the users of heroin. As regards its ability to respond appropriately to new developments, prevention work needs to be improved. The activities concerned still do not reach new risk groups and hidden users enough, as illustrated by the fact that it is frequently organisations other than the traditional institutions which are most active in visiting young people who go to discos, coffee shops and raves and use drugs there. The traditional institutions too will be expected to adopt an active approach to new user groups and to the visiting of places where drugs are used.

As regards prevention, it is difficult to say what specific results the various activities of recent years have had because insufficient evaluation has been carried out. Precisely because the field to be covered by both primary and secondary prevention activities is becoming broader, it must be clear what is effective and what is not. Research into the effectiveness and efficiency of prevention work will therefore be promoted, as will the monitoring of developments in the nature and extent of drug use. An understanding of the latter is absolutely essential if we are to respond properly to new trends. Market surveys through a monitoring system are extremely important for prevention work and for those providing care. They enable prevention workers to understand sooner and better social trends which may affect the drugs problem. Monitoring is also important for those providing, allowing them, for example, to develop at an early stage new strategies to limit damage. The government has reserved funds for proper monitoring.

The conclusion was drawn above that problematic drug use is closely linked to social deprivation. In order to be able to reach new risk groups at an early stage, prevention work will have to focus its attention on a broader front and bear such social deprivation in mind more. In order to reach groups such as young people with no fixed address, truants and marginalised groups of both Dutch and foreign origin, there will also have to be cooperation with other institutions, such as the youth services. Policy on the big cities provides for an integrated approach to the dangers of large numbers of young people in the cities becoming marginalised. This year the authorities in the big cities are to draw up concrete plans of action to tackle this problem, working in conjunction with the Public Prosecutions Department and the police.

Policy should be based on the "facet approach", which involves taking the various angles of the problem into account as much as possible. We would refer in this connection to the policy document on health from 1995 to 1998 ("Gezond en Wel, kader van het volksgezondheidsbeleid 1995-1998") (Lower House 1994-95, no. 24126) and to the policy document entitled "Regie in de Jeugdzorg" (Management in youth services)\*.

In the case of drug addiction the old adage that prevention is better than cure is particularly true. Research has shown that the decisive preventive factor for young people is a sufficient awareness of the risks. For some years now the NIAD has been carrying out a considerable number of information activities aimed at young people, in collaboration with municipal health service departments and schools. It is expected that a freephone information number will be started up in autumn 1995, dealing with questions on alcohol, drugs, tobacco and gambling. As part of the integrated approach to youth problems in the big cities, which forms an important part of the policy on the big cities, and in other contexts too, we will encourage a new drive to provide good quality, realistic information in schools on the use and misuse of alcohol, nicotine and drugs, geared specifically to problem groups as well as to pupils in general. At the suggestion of the Public Prosecutions Department, for example, the Alcohol and Drug Clinic (CAD) in Drenthe has followed the example of a successful German initiative and produced video clips on the risks of drug use which can be used to provide information in discos etc. The opportunities for carrying out public information activities in coffee shops will also be better exploited. To complete the picture as regards prevention, drug dealers who operate in or near schools or who use pupils to deal for them must be punished severely. The Minister of Justice will request the Public Prosecutions Department to bear this in mind in its investigation and prosecution policy. The sale of hard drugs to young people will meet with particularly severe penalties.

The increase in the use of designer drugs such as ecstasy requires a new approach. The problem from the point of view of prevention is that in general these drugs do not result in physical dependency, though they can cause serious damage to health. The fact that pills of inferior quality are put on the market is an additional problem. The above-mentioned monitoring system will cover the quality of these drugs too. Policy is also geared to developing new methods of communication and a national working party is currently preparing activities in this area. Greater attention can also be devoted to prevention through administration. As stated above, the Minister of Health, Welfare and Sport has recently sent a memorandum to the municipalities containing guidelines for the development of a policy on large- scale events (Stadhuis en House, 1995).

Executive agencies in particular have noted a lack of national support for prevention work in the form of information, the promotion of expertise and innovation. This is not a desirable situation, since there is insufficient opportunity for spotting both duplication and gaps in the prevention work being carried out. Nor is there sufficient information on how the care of addicts ties in with the activities of the police and judicial authorities.

In the near future we will enable a national support body for standards in prevention work to be established to meet these needs.

### 3.3. Greater coordination of care for addicts

The variety of requests for assistance and the increase in the number of target groups mean that care can no longer comprise a standard range of treatments but that the agencies concerned must provide "tailor-made" care. Essentially this entails a shift from care involving little differentiation to a demand-oriented approach which also allows aspects such as social deprivation, housing and the residential environment, and social skills to be taken into account. Appropriate care programmes will have to be developed in which the care process is geared to specific individuals, where the initial and ultimate objectives are set out and in the course of which all the various elements which may go to make up a request for assistance can be addressed. Such an approach will also help to avoid addicts having to deal with various organisations between which there is no coordination. This will mean that if clients are referred to other institutions in the course of their treatment, information will have to be transferred and agreements made monitored. Those responsible for a client at the various institutions should keep one another informed through client files, standard records, standard protocols and personal communication. Case management is of crucial importance to this kind of integrated care programme.

There are two key concepts which are central to the provision of care: responsibility and reciprocity. Addicts must accept responsibility for their own behaviour. The fact that they are addicts is no excuse for causing a nuisance to other people. The second concept, reciprocity, means that addicts are expected to keep to agreements made with care workers in return for the help they receive. The programmes to be developed as part of the renewal of care will have to help achieve these objectives. If a demand-oriented approach results in a care programme geared to individual needs and wishes, the ideas of responsibility and reciprocity will mean more to clients. It will then be easier to remind addicts of their obligations to society, which are a reasonable quid pro quo for their care.

Most methadone substitution programmes are carried out by the non-residential care sector. Many addicts lead lives which are reasonably socially integrated, partly as a result of these programmes. Nevertheless, in many cases they do not go on from these programmes to treatment and training, employment and accommodation projects. Methadone programmes, treatment programmes and social rehabilitation projects should be complementary and in the years ahead this is an aspect which must be worked on. Improved coordination with other care institutions for drug addicts, general social service institutions, including those which help people get into employment, the police and judicial authorities, and the probation service, would be a positive contribution. The Inter-administrative Task Force on Public Safety and the Care of Addicts will be responsible for promoting this.

### 3.4. Differentiation in residential care

Apart from a few beds for acute emergencies involving overdoses (crisis detoxification), residential care is almost entirely geared to achieving abstinence. There is a problem in that there are certain categories of users who need residential care but are not in a position in which abstinence can be regarded as a realistic objective. At the time such users are admitted to residential care their situation is usually so bad that no considered plans for the future can be made. Their only real need at that point is often rest and the chance to recover. If they are then told that the aim of admitting them is to ensure their future abstinence from drugs, practical experience shows that a very large number of clients will refuse admission

immediately or give up the treatment at an early stage. For this reason residential care should also be more differentiated than in the past as regards the aims and exact content of the treatment it provides.

In addition to treatment aimed at achieving abstinence, residential care will also provide programmes where the aim of treatment is not so radical - stabilising and improving the situation of the individual addict, for example. As things stand, clients can only choose between various programmes aimed at abstinence, most of which are lengthy. There are far too few short or part-time programmes which are not aimed directly at total recovery but at stabilisation and improvement. The establishment of the Residential Motivation Centre (Intramuraal Motivatie Centrum) in Amsterdam is a start. The first task there is to create a stable, safe environment; from there consideration can be given to what kind of follow-up treatment (residential or otherwise) is appropriate. The development of suitable programmes for use in such a setting will increase the chance that addicts who have been difficult if not impossible to reach to date will come into and remain in contact with the care services. This will be promoted by ensuring that greater attention is paid from the start in residential care to aspects related to social rehabilitation. Trials involving sheltered accommodation and work experience experiments (both forming part of an integrated package of care) are a practical example of such a multi-faceted approach. We will encourage those involved in residential care to set up their own projects of this kind, geared to social rehabilitation.

### 3.5. Management and financing structure of non-residential care for addicts

Most non-residential care for addicts is concentrated in approximately 45 larger municipalities. Until 1994 such care was funded under the Temporary Subsidy Scheme for the Care of Addicts (TFV), which had a budget of over NLG 110 million per annum. The main feature of the scheme was that financing was channelled through 23 "central" municipalities which were then responsible for organising non-residential care for addicts in their region, in consultation with the other municipalities concerned. The joint distribution of the regional budget among the various institutions and municipalities concerned was thus assured. This partly decentralised management system and financing structure operated satisfactorily.

As part of the policy on social renewal, non-residential care for addicts was incorporated, subject to conditions, in the Temporary Act for the Promotion of Social Renewal (TWSSV). The above-mentioned system involving 23 central municipalities managing care in the region was retained. An obligation to provide care and information and to establish appropriate consultations with other relevant parties in the region was also imposed on those municipalities.

In view of the temporary nature of the TWSSV, the intention is that as of 1997 the total TWSSV budget will be transferred to the Municipalities Fund. As it is not possible to require one municipality to transfer funding from this source to another, this means that the budget for non-residential care for addicts will be split and spread among all municipalities. The link between administrative responsibility, the obligation to provide care, and the ability to procure the necessary funds will thus come to an end.

The Dutch Association of Care Organisations for Addicts (NeVIV) and a number of municipal authorities have pointed out the dangers of fragmentation. The

government is of the opinion that the duty of the municipalities concerned to cooperate with other relevant parties and to provide information in the provision of non-residential care for addicts should be laid down in law. This could be done by amending the Welfare Act (section 12 in particular), for example.

In consultation with the parties concerned ways are being sought of establishing a financing structure before 1997 which will in essence allow the present system to continue. It is crucial that the link between administrative responsibility and the availability of the budget to carry out that responsibility should be maintained. There is an instrument which can be used by the Municipalities Fund temporarily to allocate funds to specific municipalities. The funds would then remain the same but would be channelled through the Municipalities Fund. This could continue for up to four years, a period which would be used to improve the necessary regional cooperation. Such cooperation will then enable the resources to be distributed in the ordinary way.

### 3.6. Compulsion and dissuasion in the care of addicts

The policy being pursued is based on the above-mentioned policy document on the reduction of nuisance (Lower House 1992-94, 22684, no. 12). A crucial part of this is the "compulsion or dissuasion" approach, whereby certain addicts who have been arrested on account of criminal offences are given a choice between entering into a period of supervision and treatment with some prospect of being integrated in society and ending their life of crime, or remaining in custody.

As stated above, an inter-ministerial Steering Committee for the Reduction of Nuisance (SVO) has been set up to implement the policy set out in the policy document.

In consultation with the relevant parties in the municipalities which are responsible for reducing nuisance and providing non-residential care for addicts the SVO has drawn up integrated project plans. After all, primary responsibility for local policy lies with the municipalities. In 1994 it was possible to provide nine municipalities with grants. The policy on large cities was borne in mind in selecting the total of 25 municipalities which were eligible for such a grant from 1995. One of the criteria on which the distribution of funds was based was that the approach adopted should be an integrated one, devoting attention to prevention, care, detention and rehabilitation alike. It also had to be clear that the various parties, such as those providing care for addicts (residential and non-residential), the police, the judicial authorities, the probation service, municipal agencies and penal institutions had all bore accepted responsibility for bringing about a reduction in nuisance.

In addition to these local projects grants are also being provided to a number of national initiatives, such as the "Made to measure dissuasion" project being run by NeVIV, increasing the number of social services bed and breakfast establishments, the expansion of early intervention projects (VIPs), the development of work and training orders for addicts, the expansion of the number of drug-free units in penal institutions and the establishment of a forensic addiction clinic (FVK). The latter, in which addicts will pass through closed and open stages of treatment, is expected to become operational early in 1996. The clinic's target group will comprise addicts who have committed criminal offences and who can be treated, but the nature of whose addiction, the seriousness of whose offences, whose personality structure and whose history of care are such that admission to open residential care would not be

appropriate. Addicts will therefore enter the clinic and undergo treatment in a closed setting, the duration of which will vary from one person to another. Once they have completed the closed stage they will move on to the open stage, which will take place in a special community providing accommodation and work and/or work experience, in a rural setting. This is a new form of care for addicts which is being started as a trial; a certain amount of time will be needed before it can be fully operational. This is why a start will be made with the closed stage, and on a small scale. Ultimately, a maximum of 70 places will be available.

In accordance with the estimate given in the policy document on the reduction of nuisance caused by addicts, we will increase the budget of the Steering Committee for the Reduction of Nuisance (SVO) for 1996 by NLG 12.5 million. As stated above, the SVO will be merged with the task force on nuisance caused by drugs to form the Inter-administrative Task Force on Public Safety and the Care of Addicts.

The government attaches considerable value to increasing the number of places available in compulsion and dissuasion projects. The 200 additional cells where inmates follow a simple regime, most of which will become available in 1995, have been reserved for the four biggest cities as part of the policy on the big cities. More cells and cells of different types are needed for the dissuasion projects. In consultation with the Public Prosecutions Department 500 of the additional cells which the government has decided to provide in 1996 will be reserved for the detention of addicts who have committed serious offences. This will provide sufficient extra capacity for this category of offender.

As part of the "Effective Detention" initiative, drug-free units have been created within penal institutions. The capacity of these units, which have a modified regime, is approximately 300. It is planned that this should be increased to 620 by 1997. The intention is that these places will enable suitably motivated addicts to spend some or all of their time in detention in drug-free units and actively prepare themselves for actual treatment and social rehabilitation. Offenders will leave the units either to go into treatment (under article 47 of the Prison Rules) or because the period of detention has come to an end, in which case they will have the option of continued supervision by an organisation concerned with the care of addicts and/or the probation services.

Order under the criminal law for the care of addicts

Current compulsion and dissuasion projects are intended for addicts who have committed relatively serious offences. As a rule, they are admitted to a drug rehabilitation clinic when discharged from the penal institution. As stated above, current thinking is that in the case of a great many addicts it is not realistic to expect them to achieve abstinence in the short term and that it would be better to seek an improvement in their way of life and integration in society. To this end, various forms of non-residential care are provided, in which the emphasis is on undergoing training or work experience. A number of towns and cities, including Dordrecht and Den Bosch, have had some success with offering training and employment, under strict conditions, to systematic offenders, including addicts\*.

Within the framework of the policy on the big cities, talks have been held with the four big cities on the possibility of setting up a trial involving addicts who have committed a series of less serious criminal offences participating in forms of care in a closed setting. The most that can be expected of a large proportion of such addicts is

an improvement in lifestyle. This can be achieved by placing them in care, in a closed setting, where their social rehabilitation can be pursued through training and work experience. The legal grounds for these new forms of care for problematic addicts who have committed offences can, for the time being, include the suspension of a custodial sentence subject to special conditions. This means that addicts are placed in a closed establishment on a voluntary basis as an alternative to spending a period of detention in a remand centre or prison. If they leave the programme early they will be arrested and sent to a remand centre. The municipality is responsible for providing treatment, training and work experience, both during the placement and once an addict has been discharged. Ideally, some prospect of actual employment at the end of it all should also be provided, and to this end the Ministry of Social Affairs and Employment is involved in the preparation of the experiment.

Making placement in care a condition for the suspension of a custodial sentence is not ideal. Placement takes the place of relatively short period of detention can thus also only be for a short time. It is desirable that ways be found of placing addicts in care on a compulsory basis when they cause a serious nuisance, by committing a series of minor offences and/or engaging in aggressive behaviour, for example. A specific legal basis must be created. The Minister of Justice is therefore to submit a bill on the introduction of an order under the criminal law for the care of addicts, analogous in part to the measure which used to be taken to place tramps, beggars and pimps in a state labour institution (article 432, Netherlands Criminal Code). Justification for placing addicts who continue to commit offences with great regularity in care lies not in the seriousness of the individual offences they have committed but rather in the nuisance to the community their crimes cause and in the fact that it is important that drug addicts receive integrated treatment and training in a closed setting. For this reason the maximum length of such a placement will exceed the usual tariff for property offences, extending from a minimum of three months to a maximum of one or two years.

The municipal authorities in the four biggest cities have said that they are willing to cooperate in setting up one or more trials. A survey is to be conducted in the very near future to determine, among other things, the precise size of the target group. The municipalities of Rotterdam and Amsterdam have said that they are prepared to help finance the trial and we are prepared to commit funds from the big cities policy budget.

It has been agreed with the big cities that the above-mentioned Inter-administrative Task Force on Public Safety and the Care of Addicts will set up a joint working party to prepare and supervise the survey, followed by one or, if possible, a number of trials. It is hoped that a trial will begin in Rotterdam as early as 1996, involving approximately 100 addicts who cause a nuisance. The Task Force will develop proposals for the expansion of the trials to include at least 300 places, at least 100 of which will be made available to the municipality of Amsterdam.

We anticipate that, partly on account of the limited numbers of highly active recidivist addicts per city, increasing the number of places in coercion and dissuasion projects plus increasing normal cell capacity will result in a substantial reduction in the amount of nuisance caused by problematic criminal addicts.

### 3.7. Provision of heroin on medical grounds

The nature of the problem of seriously degenerate and sometimes seriously ill addicts is different again. The constant presence of such addicts means that new methods of intervention are needed, especially in the Netherlands, where the average age of addicts is relatively high. There are those who advocate that such addicts should be admitted to clinics for treatment on a compulsory basis (on medical grounds) and there are others who believe that they should undergo compulsory treatment in prison on account of the drug-related crime they commit.

Experts consider that it would only be possible to admit a very small number of addicts to clinics under the terms of the Psychiatric Hospitals (Compulsory Admission) Act (BOPZ). Addiction in itself is not a mental illness. Most addicts could not be diagnosed as mentally ill on valid grounds. However, there is a relatively large number of psychiatric patients among the most degenerate addicts. On the other hand, mentally ill people who have been heavily addicted to drugs for a long time are usually difficult if not impossible to treat. The options for admitting more addicts to closed clinics for treatment are therefore extremely limited.

The amount and nature of the crime such people commit are not so serious as to warrant placement in a forensic addiction clinic or the coercion and dissuasion approach on the grounds of the criminal nuisance they cause.

On 7 June 1995 the Vice-chair of the Health Council presented a report to the Minister of Health, Welfare and Sport on prescribing heroin for addicts; the report was brought to the attention of the Lower House. The Committee on the Use of Medicines in Drug Addiction, which drew up the report, concluded that, in view of the fact that insufficient scientific data was available on the effectiveness/harmfulness of prescribing heroin on medical grounds to any type of addict within the current heroin addict population, it was desirable for research on the subject involving a medical trial to be conducted in the Netherlands. The Committee believed that addicts who were seriously addicted to heroin and who did not respond adequately if at all to the medicinal treatments currently available should be eligible to participate in such a trial. They did not believe the length of time a person had been addicted to be of decisive importance, though addicts wishing to take part should have participated repeatedly and without success in treatment programmes aimed at using medication to stabilise their condition and prevent them relapsing into addiction. The aim of the trial would be to examine whether such addicts can be stabilised through the prescription of heroin, whether their physical and psychosocial wellbeing can be improved, whether their use of additional drugs can be reduced and whether they can perhaps be motivated to give up their addiction.

The Committee advised that the medicinal use of heroin should be compared with the currently most common form of medication, oral administration of methadone. If desired, the heroin to be prescribed can be combined with oral methadone. The trial should involve both injectable and non-injectable heroin. This means that the research project must be structured in such a way that in interpreting the results account can be taken of the different forms of administration and the differences in the euphoria arising from them. Naturally, the trial must meet all the requirements of good clinical research.

The Committee recommended that the trial should be conducted by the existing care organisations. Consideration could be given to carrying out the research in a number of locations at the same time, and not only in the big cities; in principle, it would then be possible for the protocols to differ in parts one from another. Too many locations should be avoided to ensure that the project does not become unmanageable. Scientific evaluation of the trial should be carried out by an independent research organisation. The Committee considered it advisable that the research protocol should be submitted not only to a committee on medical ethics but also to an international committee of experts. In view of the importance of such a study and the need for coordination, the Committee also recommended the establishment of a national monitoring committee.

The Committee advised against giving addicts the heroin prescribed to take away with them and stressed that ceasing to prescribe the drug upon termination of the study could present problems. Experience had shown, the Committee added, that such problems could largely be avoided if a contract were concluded with each participant in the trial stating the purpose of the trial and its duration, plus the rights, obligations and responsibilities of both the patient and those treating him or her. The Committee also advised that research should be conducted into the possibilities that other opiates producing euphoria might offer in the treatment of heroin addicts, particularly those which are available or can be made available in a form which is easy to administer.

We share the Committee's basic idea, that a medical trial into the effectiveness and harmfulness of prescribing heroin to heroin addicts is desirable, given that insufficient scientific data on the subject is available.

We are also able to agree in principle with the target group for such a trial, as formulated by the Committee, namely individuals who are seriously addicted to heroin and who do not respond adequately if at all to the medicinal treatments currently available. Partly in view of the undoubtedly strong attractions of participation in such a project for addicts, we do consider, however, that it should in the first instance be reserved for older addicts who have a long history of addiction and whose psychosocial situation is beyond remedy. On this point we therefore disagree with the Committee's standpoint that the length of time that an addict has been addicted is not of decisive importance.

We also endorse the objective of such a trial, namely to see whether the condition of the kind of addicts involved can be stabilised by the prescription of heroin, whether their physical and psychosocial wellbeing can be improved, whether their use of additional substances can be reduced and whether they can perhaps be motivated to give up their addiction. The three aspects of wellbeing - physical, mental and social - are functionally linked, and measuring them will require different objective criteria for each. The multiplicity of factors which will affect the outcome of treatment - the Committee mentions the medication used, the dose and method of administration, the personality of the person treating the addicts, the setting in which treatment occurs, the rituals surrounding treatment, the expectations and the intentions of the person carrying out the treatment, the expectations, hopes and receptiveness of the patient and, finally, the interaction which occurs between the two in the course of the treatment - explains in part the Committee's view that trials should be conducted at a

number of locations and that over a hundred addicts should be involved at each of them.

We believe that a trial period is necessary before an answer can be given to these practical, medical and organisational questions and a better estimate of the costs involved made. Such a period is also required in order to draw up a realistic research protocol and test its feasibility in practice. What is needed is a preliminary study, involving no more than 50 addicts. An initial period of six months might be involved, terminating with an evaluation, followed by another six months spent in drafting a strict medical protocol. Evaluation of that should in turn produce a definitive protocol structure for the medical trials to be carried out. Addicts such as described above should participate in the preliminary study and the criteria for their selection should be worked out carefully.

As already indicated, the provision of heroin in this way is intended to improve the physical and psychosocial situation of the addicts concerned. This measure is not intended to reduce nuisance to others, though attention should be devoted to both nuisance and crime in the protocol on the data to be collected and in the evaluation study. What must be clear from the outset is that heroin can no longer be prescribed to addicts who have been placed in custody on account of having committed offences.

The Minister of Health, Welfare and Sport will enter into consultations with the municipal authorities which have already submitted proposals for the provision of heroin to addicts, in order to establish where the preliminary study described above can be held. If the preliminary study proves successful a decision will be taken on the definitive medical trial. One condition will be that some form of co-financing must be involved to meet additional material costs, such as the costs of heroin preparations and medical reports and evaluation. The municipal health services could in principle be primarily responsible for the implementation of the trial.

The Minister of Health, Welfare and Sport has asked the General Chief Inspector of Health to draw up a report on the subject.

The use of heroin for experimental/therapeutic purposes during the preliminary study and the medical trials can be authorised by the first of the undersigned granting permission for the drug to be used for scientific purposes, in accordance with section 6 of the Opium Act. The necessary peer review of the medical activities involved can also be arranged in this context. The Public Health Supervisory Service would have to be responsible for supervising the project. Reports assessing experience to date could be submitted to the Minister of Health, Welfare and Sport and to the Lower House in the form of an annual report from the Supervisory Service.

In the meantime, the trials involving the prescription of heroin which are currently being carried out in Switzerland and which are being evaluated by the World Health Organisation, among others, can be examined to see whether they have yielded any information which could be of value to policy in the Netherlands in the future. At the moment, seven hundred addicts in Switzerland are being provided with heroin. Experience to date, it is believed, has been mainly positive. The Public Health Supervisory Service has been asked to follow the progress of these projects and to

report on them in due course to the Minister of Health, Welfare and Sport. The report will be brought to the attention of the Lower House.

Under the provisions of article 12, in conjunction with article 19, of the Single Convention, full details must be given to the International Narcotics Control Board in Vienna, so that the current estimate of heroin consumption can be increased to the level required for the implementation of the prescription plans. This means that that level will have to be determined in cooperation between the medical services responsible for implementing the plans and the Public Health Supervisory Service.

Separately from the above, the Committee recommended making it easier in practice to provide heroin or other opiates equivalent to heroin, by way of a palliative, to seriously ill patients who have been permanently addicted to heroin for a long time and are expected to have only a short time to live. The Committee's recommendation was not accompanied by an explanation of the existing technical difficulties. The Public Health Supervisory Service has therefore been asked to set up a study on the subject and to present more detailed proposals on making such treatment easier. The availability of medicines containing heroin will in any event be a problem, as they are not registered in the Netherlands. The criteria by which patients should be selected for such treatment must be formulated carefully. The Minister of Health, Welfare and Sport is prepared to consider this aspect of the Committee's report more closely and to discuss it with the Lower House.

#### 3.8. Guarantee of standards, and evaluation

On the one hand, the range of preventive and curative facilities on offer should be constantly renewed in response to newly emerging problems and questions but on the other the relevant budget must be kept under control. Choices will always have to be made within the range available. A proper understanding of the costs and benefits of the various options is essential for the development of policy in this area. Up to now insufficient attention has been devoted to the effectiveness of both residential and non-residential care for addicts in the Netherlands. As part of the renewal of care and the policy on the big cities, greater emphasis will be placed on monitoring and evaluation. A considerable contribution can already be made in fact if national registration systems are developed further and if the institutions' annual reports include more statistical information on the addicts treated, drop-outs, and clients who have completed courses of treatment, and how their lives have progressed since, if known. Studies evaluating preventive measures are also still being conducted in a less systematic manner than might be desired and the Minister of Health, Welfare and Sport will encourage improvements in this area.

Institutions involved in the care of addicts have now started developing a policy on standards. For example, an assessment framework has been drawn up, product standardisation projects have been started, and research has been conducted into how satisfied clients are with services. The Organisation for Future Scenarios in Health Care has been asked to draw up future scenarios for the addiction problem as well\*.

#### 4. Policy on soft drugs and coffee shops

##### 4.1. Extent and nature of cannabis use

The decriminalisation of the possession of soft drugs in 1976 did not result in increased use. The level of consumption stabilised in the first few years after the Opium Act was amended\*. According to national figures, use again increased somewhat between 1984 and 1994, a trend which has also been observed elsewhere\*.

Indeed, the United States has experienced a considerable increase in recent years\*. Both as regards the extent of cannabis use and trends in use, the Netherlands differs very little from other countries. Use appears to be determined primarily by fashions in international youth culture and other autonomous developments, such as levels of long-term youth unemployment. Government policy on drugs and the resulting availability of drugs has only a limited effect.

The total number of people in the Netherlands who regularly use cannabis is estimated by the Netherlands Institute for Alcohol and Drugs (NIAD) to be around 675,000\*.

As already indicated, the number of users of soft drugs has increased after falling in the 1970s. Patterns of consumption are overwhelmingly recreational, though among certain specific categories of young people, such as chronic truants and street children, the use of cannabis can be described as very substantial and intensive.

The policy pursued by the Netherlands does not appear to have led to an increase in use, though there are indications that the existence of freely accessible coffee shops means that certain users continue to use the drugs for longer\*.

Prevalence figures - i.e. figures on the extent of use within certain sections of the population - in themselves provide little if any information on problematic aspects of cannabis use. A great deal of scientific literature is now available on the effects of cannabis. It mainly affects mood, consciousness and memory and its effect is dependent on the amount used and the way in which it is used. In addition to its euphoric effects and the peace and relaxation it brings - on account of which it is prescribed for medical purposes in the United States and other countries - cannabis can reduce the ability to concentrate, alertness and memory\*.

Cannabis is not very physically toxic. Neither fatal overdoses nor physical dependency can occur. Users may become psychologically dependent but the frequency with which and extent to which this occurs are such that it cannot be compared with the psychological dependency associated with the use of heroin, cocaine, alcohol or nicotine. Cannabis use generates less aggression than drinking alcohol and it is certainly not an automatic step on the road to the use of hard drugs. The number of incidents resulting from acute overdoses is no more than a few dozen a year. They can be treated easily: in the vast majority of cases it is sufficient to place the user in a quiet environment and if necessary administer a tranquilliser.

The number of people seeking the assistance of the Alcohol and Drugs Clinics (CADs) on account of their cannabis use has increased in recent years. In 1993 1,749 people were registered with CADs because of problems associated with the use of cannabis. That is 3% of the total number of clients registered with organisations caring for addicts. It is estimated that this represents between one and two percent of intensive cannabis users, that is to say those who use cannabis ten or more times a month.

Everything we now know, together with the circumstances in which the drug is used, leads to the conclusion that the risks of cannabis use cannot in themselves be

described as "unacceptable", unlike those associated with the use of hard drugs such as heroin.

Nevertheless, some caution is called for in respect of the use of cannabis too. The drug is particularly popular among young people, that is to say users who are at a stage in their lives at which risks are actively explored. As a result of the increasing levels of education and training needed, there are considerable social pressures on today's adolescents to do well at school and at work. At the same time, the prospects of permanent employment and the status and social relations which go with it for certain groups of young people are uncertain. In this context social control may be relatively weak, which means that there is a greater chance of excessive cannabis use.

The effects of cannabis on schoolchildren require particular attention. It has been established that while occasional use presents few problems, the use of cannabis on a daily basis makes it more difficult to produce adequate schoolwork. It would be desirable to know more about schools' experiences of the use of soft drugs by pupils. This is hindered by the fears of headteachers and school boards for the reputation of their schools and by parents' and teachers' fears concerning the privacy of the pupils concerned. Greater openness is required here.

In conjunction with existing activities, an attempt will be made to gather more information on the extent and nature of the problems associated with the use of cannabis by pupils and on the effectiveness of the corrective and preventive measures in use. More information will be provided on the risks of frequent cannabis use.

#### 4.2. The size of the soft drugs market in the Netherlands

Various estimates have been made of the size of the domestic soft drugs market. According to a recent estimate, annual consumption by Dutch citizens amounts to some 500 million guilders. The total domestic market, i.e. including sales to drugs tourists, could be NLG 800 million (price to the final consumer). This market has provided openings for organised crime\*. Half of all cannabis consumed comprises types of hashish from Asia, the Middle East and North Africa and a small amount of marihuana, which comes primarily from Colombia. Moroccan hashish accounts for almost three-quarters. There are indications that a large proportion of the hashish imported into the Netherlands is then re-exported. The export organisations involved, which are often run by Dutch people, are managed in a highly professional manner aimed at continuity.

In 1994 over 43 tonnes of hashish and almost 195 tonnes of marihuana were seized. The number of homegrown cannabis plants found and destroyed in the Netherlands rose to 558,000. A number of consignments of cannabis seized abroad were found to have been destined for the Netherlands. Despite these investigative successes the market in the Netherlands continued to be amply supplied.

The market share of domestically grown cannabis is believed now to amount to half of the total domestic consumption of soft drugs. The Netherlands' traditional knowledge of horticulture and plant improvement has helped in the conquest of this share of the market. Dutch cannabis is considered to be of a high quality and is therefore particularly popular with young people.

Annual turnover resulting from import, domestic sales, export, re-export and transit trade in soft drugs is believed to amount to some 6.5 billion guilders. Finally, it should be noted that Dutch citizens are also involved in trafficking in soft drugs, in particular, in other parts of the world\*. Such activities fall mainly under the jurisdiction of the judicial authorities in the countries involved.

#### 4.3. Regulation of coffee shops

The sale of small quantities of soft drugs which was initially permitted only in youth centres has for some time now been partly in the hands of commercial operators in many parts of the country. As a result, there has been a considerable increase in the retail trade in soft drugs in many municipalities throughout the 1980s and 1990s.

As explained in the introduction, coffee shops have proved to be of assistance in keeping the retail markets for soft and hard drugs separate, as desired. However, having in themselves proved their worth, coffee shops have also increased both in number and the problems they engender. Moreover, criminal organisations have gained a measure of control over some of them.

Neighbours in some municipalities complain about the nuisance caused by such phenomena as customers hanging around the streets outside coffee shops, litter and increased traffic\*. Coffee shops in town centres understandably give rise to fewer such complaints than those in residential areas. Nuisance is a particular problem in municipalities along the borders because of foreign customers, who often behave in an aggressive and intimidating manner.

There has been a great deal of criticism of the establishment of coffee shops near schools and other youth centres. Occasionally there are also complaints about the sale of hard drugs in or near coffee shops. The latter is totally contrary to policy as laid down by the Public Prosecutions Department in its guidelines on coffee shops of October 1994. The Public Prosecutions Department will take stricter action against such breaches in the future. The large concentrations of coffee shops in some municipalities not only cause nuisance but also encourage the sale of hard drugs. Such concentration means that profits from the trade in soft drugs are too small for operations to be viable and is therefore undesirable from this point of view too. The assertion sometimes made abroad that hard drugs are also sold in Dutch coffee shops as a matter of course is completely erroneous, however\*.

Criminal justice policy as set out in the policy guidelines on investigating coffee shops published by the Procurators-General in October 1994 (Netherlands Government Gazette 1994, no. 203), is intended to support the policy on coffee shops established in local tripartite consultations. Under strict conditions - no advertising, no sale of hard drugs, no nuisance, no sale to young people under the age of 18, and no sale of more than 30 grammes per transaction, per person - no criminal proceedings will be instituted against people involved in the sale of soft drugs in catering establishments not licensed to sell alcohol which are designated in the tripartite consultations. It is a matter of principle that only establishments which do not sell alcohol should be permitted to sell soft drugs.

The guidelines of the Public Prosecutions Department notwithstanding, the establishments which sell soft drugs still vary enormously. Strictly speaking, a coffee shop is a catering establishment which does not sell alcohol and which has no gaming

machines. In practice, soft drugs are also sold in bars, video hire shops, fitness centres and people's homes. The number of such points of sale is estimated to be about 900. The number of coffee shops in the strict sense of the term throughout the country is believed to be between 1,100 and 1,200. Coffee shops also vary considerably in character, from those geared to mass sales in the cities, to neighbourhood shops or youth shops where regulars play table football, to shadowy establishments off the beaten track. Commercialism has the upper hand everywhere, with the sale of soft drugs on idealistic grounds continuing in only a few municipalities.

Many municipal authorities are endeavouring, in cooperation with the police and judicial authorities, to improve the situation as regards coffee shops and to control them better. In other words, the policy of tolerating coffee shops is being tightened up. The stage reached in the formulation and enforcement of this new policy on coffee shops differs from one municipality to another. In many municipalities attempts are being made drastically to reduce the number of coffee shops, for example to half the present number, over a period of years. We support these efforts, partly because they will make the coffee shop phenomenon more manageable.

If they use them consistently, the administrative instruments available to municipal authorities should permit them to bring a great deal of the nuisance caused by the use of and dealing in soft drugs under control and keep it that way; they can also be used to refuse licences to coffee shops near schools or in streets where catering establishments are not desirable on account of the traffic situation or residential nature of the street\*.

Measures to regulate the establishment of coffee shops can be taken under the terms of nuisance ordinances, the Catering Establishments Decree, the Nuisance Act, local non-licensed hotel and catering ordinances, local bye-laws and ordinances on the living and working environment. Planning regulations can be used to combat the establishment of coffee shops in unacceptable places (opposite schools, club houses and neighbourhood centres).

Measures to regulate the running of establishments can be taken in a manner similar to those under the Licensing and Catering Act, under local bye-laws, and under the terms of local non-licensed hotel and catering ordinances. A number of municipalities have also concluded voluntary agreements with coffee shop proprietors.

It is possible to establish clear standards for coffee shops using the instruments outlined above. The municipal standards then have to be enforced of course, and action really must be taken against the sale of soft drugs outside coffee shops. This requires practical agreements between the municipal authorities, the Public Prosecutions Department and the police in the tripartite consultations. The aims of this policy are to end the sale of soft drugs in bars which serve alcohol and to impose strict regulations on coffee shops as regards location, opening hours, design, sanitary facilities, parking and noise nuisance.

The attractions which an establishment holds for criminal elements plays a role in the question of whether nuisance is likely to be caused. It is therefore important that the character and background of those running coffee shops should be subject to

certain requirements. Where coffee shops are concerned, this can be achieved through recourse to local ordinances on non-licensed catering establishments, by analogy with ordinances under the Licensing and Catering Act and the Decree on requirements pertaining to moral behaviour pursuant to that Act. In consultation with the Association of Netherlands Municipalities (VNG) we are now examining whether model provisions on the subject can be developed. These efforts are not only intended to establish a number of quality requirements, but also to make it possible to refuse a licence or a nuisance permit if the manager or proprietor of a coffee shop has a criminal record or is acting as a front for a criminal organisation. As part of administrative efforts to combat organised crime, consideration will be given during the general review of the Licensing and Catering Act to how the powers available to municipalities to refuse or withdraw licences can be increased. In elaborating the new provisions the desirability of preventing the image of other catering establishments being damaged will also be considered.

The integrated policy described above, which combines judicial and administrative elements to regulate coffee shops, does not mean that a municipality has to tolerate the presence of one or more sales points. The municipal authorities may decide to allow no coffee shops at all. Naturally, this must be discussed with the chief of police and the public prosecutor in the tripartite consultations. Depending on the real local demand for cannabis, there is a risk in such a situation that young people would become dependent on the criminal underworld for the purchase of soft drugs. Moreover, the sale of soft drugs could shift to premises used for drugs, to bars or to the streets, the side effects of which would cause problems. The enforceability of such a policy must also be considered. Most municipalities therefore prefer to tolerate a few relatively safe points of sale. The government supports this approach, providing the standards decided upon are properly enforced. If it is decided in the tripartite consultations that no coffee shops should be permitted, the Public Prosecutions Department will institute criminal proceedings against existing coffee shops, even if they are otherwise complying with the guidelines.

A clear enforcement policy means that capacity must be provided to monitor and check licences and compliance with the Public Prosecutions Department guidelines and local ordinances. Action must be taken in response to violations of the standards set. The municipalities and the Public Prosecutions Department will be asked to do all they can to ensure this. If the coffee shop situation is to be improved and regulated, ensuring that the limits set are complied with is a primary requirement. In this connection the government would make reference to the increase in police manpower which was agreed in the government policy accord. It is legitimate to expect that the efforts required by way of monitoring and enforcement can be reduced once the situation has been improved as intended.

People operating coffee shops must pay tax on their income and will be assessed accordingly. Flows of money which are connected to the real turnover of coffee shops which comply with the requirements set by the authorities will not be regarded as unusual transactions as understood by the Unusual Transactions Disclosures Office.

We consider that a coordinated local approach is of considerable value in combating the nuisance caused by coffee shops. The Inter-administrative Task Force mentioned previously will set up a panel of experts which will be responsible for

supporting municipalities, the police and the Public Prosecutions Department in the implementation of a combination of administrative and criminal law measures to regulate coffee shops and in the further development of administrative options. This office will also be able to make recommendations on policy to be followed by municipalities on other aspects of the drugs problem.

#### 4.4. Coffee shops and organised crime

A well-stocked coffee shop will be able to offer a selection of various sorts of marihuana, hashish and Dutch-grown cannabis. It is estimated that the latter now accounts for over half of turnover. Coffee shop operators obtain their wares from wholesalers or people who have been on holiday and have brought cannabis or cannabis derivatives back with them.

Since the emergence of Dutch-grown cannabis, some coffee shop operators have started growing their own or maintaining contacts with various domestic growers from whom they can buy their goods. This enables the entire production and sales chain to remain free of the influence of criminal organisations.

However, criminal investigations have also repeatedly found criminal organisations involved in the import, cultivation, wholesaling and distribution of cannabis, and in the running of coffee shops and other catering establishments. They invest in property and legal establishments, in the sex industry and gaming halls for example. In such organisations coffee shop operators are often no more than frontmen.

There are also indications that criminal organisations are involved in both the large-scale cultivation of cannabis (indoors and out of doors) and small-scale, professional indoor cultivation in the Netherlands. However, the cultivation of Dutch cannabis in general is by no means dominated by such organisations.

The influence of organised crime is an important criterion in the assessment of the policy on coffee shops. The role of criminal organisations in the supply of soft drugs to coffee shops should be reduced to the minimum, partly because of the aim of keeping the markets for hard and soft drugs separate. After all, if coffee shops are under the control of criminal organisations there is a considerable chance that hard drugs will be sold and that other criminal activities will take place on the premises. Apart from that, criminal organisations should be given as little chance as possible to earn money from the tolerated sale of cannabis in coffee shops. Reducing the influence of organised crime on coffee shops is an important objective of our policy. Policy as regards the criminal law and the supply of soft drugs to coffee shops is discussed in further detail in chapter 5 of this policy document.

#### 4.5. Drug tourism and coffee shops

In the border areas in particular, coffee shops attract customers from neighbouring countries, much to the annoyance of governments whose own policies on drugs are geared at least in theory to keeping the sale of any quantity of cannabis, including small quantities for personal use, illegal. Furthermore, the residents of Dutch towns near the borders suffer considerable nuisance as a result, as has already been pointed out.

It has been suggested that the problem of drugs tourism could be solved by banning sales to foreigners under the Schengen Agreement. However, an order to

discriminate between Dutch and foreign buyers of cannabis would be in conflict with the Constitution and, moreover, difficult to enforce. If such a distinction were to be made, Dutch citizens would simply be used as intermediaries.

Foreign criticism is not primarily concerned with the use of cannabis on the spot in Dutch coffee shops but rather the import into other countries of quantities which could be regarded as stocks. The 30 gramme limit which divides summary offences from indictable offences was adopted when the Opium Act was drawn up in 1976, on the basis of legislation in the United States, where possession of no more than an ounce of cannabis had been decriminalised. This limit was also chosen because the amount was enough to provide users who shared their supplies with others with enough to keep them going for about two weeks. Such users would therefore still only be committing summary offences rather than indictable ones. Even when the Opium Act was debated in parliament in 1976 this criterion was criticised because there was a risk of more professional dealing developing from it.

For example, 30 grammes of cannabis can be made into between 50 and 100 cigarettes (joints). Average customers in coffee shops buy amounts of no more than 3 grammes, costing about NLG 25. In the border areas at least, quantities of more than a few grammes sold to foreigners are almost certainly destined for export. At weekends, two-thirds of coffee shop turnover in many municipalities is accounted for by drugs tourists\*. There are indications that the amounts seized when drugs tourists smuggling drugs across the border are arrested have got bigger since border controls were abolished.

The liberalisation of the criminal law as regards quantities of 30 grammes or less does not apply in respect of import and export. It goes without saying that it has never been the intention of Dutch policy that coffee shops should take on the function of supplying other countries. The export of soft drugs is an indictable offence under the Opium Act, irrespective of the quantity involved. Under certain circumstances the sale of soft drugs to a foreigner or a Dutch intermediary could make the operator of a coffee shop an accessory to the export of drugs, which would render them guilty of an indictable offence, even where the amount concerned was less than thirty grammes.

In the Public Prosecutions Department guidelines the statutory norm for the possession of a quantity of soft drugs for personal use of no more than 30 grammes also applies to the sale of cannabis by tolerated coffee shops. We are of the opinion that the nuisance suffered in the border areas and the criticism from abroad are sufficient reason to reconsider this standard as far as the sale of cannabis is concerned. Coffee shops will be permitted to sell no more than 5 grammes per customer. This adjustment to the guidelines does not endanger the principal objective of the policy, which is to protect soft drug users from the world of hard drugs. The few coffee shops which are non-profit making organisations already only sell amounts of no more than 3 or 5 grammes. Dutch citizens aged 18 and over who wish to use soft drugs will still be able to buy them in coffee shops in the same way. At the same time, simple possession of an amount of soft drugs for personal use which does not exceed 30 grammes will still have no priority as far as investigation is concerned. Foreign visitors will, however, find it more difficult to procure a supply to export. This is bound to have the effect of raising the threshold for young people from other countries.

In itself, it will be no more difficult to enforce the five gramme limit than it is to enforce the current 30 gramme one. Coffee shops which regularly sell amounts over 5 grammes will immediately become known for doing so. Enforcing the five gramme limit should not require any additional capacity if compliance with the thirty gramme limit is already being monitored. Enforcement of the new limit will be one aspect of the stricter monitoring and enforcement regime which will take effect in any case in respect of those coffee shops which remain once the present situation has been improved. If foreign drugs tourism does not decline, periodic special checks will be conducted to establish whether foreign tourists are exporting quantities of cannabis bought in coffee shops or elsewhere which can be sold on; this will be intended to underline the new policy. Where necessary, assistance will be requested from the police authorities in neighbouring countries, under the terms of the agreements concluded in 1990 in the framework of the Schengen Agreement.

By setting a maximum to the amounts of cannabis which may be sold in coffee shops the Netherlands is complying with the obligation it took upon itself in the Final Act of the 1990 Convention implementing the Schengen Agreement to do all it could to combat cross-border effects of its policy on soft drugs, in so far as this differed from that of other states party to the Agreement. The change outlined above will put an end to some of the criticism of coffee shops at home and abroad without affecting their primary social function, namely keeping the consumer markets for soft and hard drugs separate. The Public Prosecutions Department will incorporate the new limit in its guidelines and ensure that it is enforced.

One difficulty faced by operators of coffee shops is that though the sale of small quantities of soft drugs is tolerated, possession of the supplies needed by the vendor is not. Given the way the law is enforced in practice this does not present any major problems. The Public Prosecutions Department guidelines will be changed in such a way that no specific investigations will be conducted where coffee shop operators adhere to municipal and statutory conditions and therefore have in their possession in their coffee shop supplies of no more than a few hundred grammes.

## 5. Enforcement of the Opium Act

### 5.1. Investigation and prosecution of drug traffickers

#### Heroin

Most heroin found in the Netherlands comes from South-West Asia. In most cases Turkish criminal organisations are involved. The share of heroin smuggling accounted for by Chinese groups has declined. The drug is often smuggled in lorries. Countries in Central and Eastern Europe are playing an increasing role in the storage and distribution of heroin. Cars are increasingly often being used for smuggling from storage points in those countries. There is good cooperation between investigation services on tackling smuggling on the Balkan route, via Eastern Europe and Germany, and Greece and Italy. A Dutch liaison officer has been posted to Turkey.

#### Cocaine

The cocaine sold in the Netherlands comes primarily from Colombia and Venezuela. Various countries in South and Central America and the Caribbean, including the Netherlands Antilles and Aruba, are involved in exports. Colombian organisations, often from Cali, control most shipments to Europe. Countries in Eastern and Central Europe also appear likely to play an important role in cocaine trafficking in the future.

## Synthetic drugs

As already stated, the Netherlands has for years been an important producer of amphetamines\*. 75% of amphetamines seized in Germany in the early months of 1994 came from the Netherlands. The figure was 90% for compounds such as ecstasy.

The Netherlands had to deal with the illegal dumping of waste from drug laboratories. One of the dismantled laboratories had a capacity of about half a million ecstasy tablets per day\*. The number of investigations of producers of synthetic drugs has increased in recent years. One of the five special teams set up to investigate organised crime is working in particular on combating production of and trafficking in synthetic drugs.

### 5.2 Investigation results

The Netherlands does not lag behind other European countries as regards the seizure of drugs by customs, the police and other investigation agencies\*. The table below provides a comparative overview of seizures of illegal drugs.

#### Comparative overview of seizures of illegal drugs\*

1994	NL	FR	GER	B	SP
Heroin (kg)	246	661	1590	137	824
Cocaine (kg)	8200	4743	767	479	3899
Cannabis (kg)	238258	58014	25694	59904	219195
Amphetamine (kg)	215	80	120	23	32
Synthetic drugs/ tablets (x1000)	143	329	30	61	314

Though it is true that the efforts put into investigation and the success achieved cannot be measured purely in terms of the quantity of drugs seized, the Dutch figures do make it clear that the police and customs authorities in the Netherlands are by no means sitting back and doing nothing. The development of methods of analysis to enable the customs authorities efficiently to monitor containers arriving at seaports and passengers arriving at airports, for example, is bearing fruit. In 1994 the amount of drugs seized by the customs authorities increased by 58% in comparison with 1993 and in the first seven months of 1995 considerably more drugs were again discovered than in the same period in 1994. Consultations will be held with the authorities in the Netherlands Antilles on whether and if so, how, checks on the export of drugs on flights to Schiphol can be stepped up.

### 5.3. The role of organised crime

#### The Netherlands

On the basis of criminal intelligence the police\* estimate that there are approximately a hundred criminal organisations active in the Netherlands, about 80% of which are engaged wholly or partly in drug trafficking\*. The police believe that there has been no real change in the volume of trafficking in drugs since 1993, since when 33 highly organised criminal groups have been dismantled, 27 of which were involved in drug trafficking. Overall, more than 100 people were arrested who could be regarded as key members or leaders of these organisations. However, new groups have also become active over this period.

About half of the disclosures to the Unusual Transactions Disclosures Office which are deemed to be suspicious are transactions concerned with drugs\*.

Organisations whose members are primarily Dutch are primarily engaged in trafficking in soft drugs. The turnover on soft drugs sold to consumers in the Netherlands is estimated to be NLG 800 million, half of which is accounted for by cannabis grown in the Netherlands. Dutch citizens are also involved in the transit of and international trafficking in soft drugs and ecstasy. A considerable part of the latter takes place entirely outside the Netherlands.

The main activity of three-quarters of the 100 highly organised criminal groups is trafficking in hard drugs; that of almost half is trafficking in soft drugs (some groups have more than one primary activity).

Over half the organisations which principally traffic in hard drugs also traffic in soft drugs and the vast majority of criminal organisations involved in soft drugs are also involved in hard drugs. At the level of organised crime there would therefore appear to be little of the separation of markets that the authorities seek to promote at user level.

#### Organised crime in Europe

No overview of criminal organisations involved in drugs or any other field of crime is available within the European Union. There are still no uniform definitions or list of criteria on which such an overview could be based. At national level, there are considerable differences in the availability of relevant statistics. The Netherlands, Italy, the United Kingdom and Germany are in the vanguard as regards describing the phenomenon of organised crime and this can produce a distorted picture. Within the framework of judicial and administrative cooperation within the European Union, a working party is engaged in seeking an appropriate method of assessing organised crime in the Union, pending the establishment of a European system for the gathering and analysis of information. The Netherlands plays an active role in this working party.

Bearing in mind the reservations necessary on account of the above-mentioned handicaps, it can be said that organised crime has taken firm root in all countries in Europe and that drug trafficking and smuggling continues to be one of the main activities of criminal organisations active in the Union. Many of these organisations operate internationally. They do not restrict their activities to one type of crime, either, but are involved in a whole range of them, particularly smuggling illegal immigrants, prostitution, arms dealing, extortion, crimes of violence, car theft and dealing in stolen cars, forgery, EC fraud, the illegal processing or dumping of waste, corruption, fraud and money laundering, and threatening police officers and witnesses to crimes, for example\*.

The various organisations sometimes cooperate, often on an international basis. As stated previously, the role that the Netherlands plays as a centre for the international transport of legal goods has created an infrastructure which can also be used for the import and transit of illegal drugs and for the preparations for such activities. Active steps will be taken to combat this abuse in the years ahead.

Combating drug trafficking in the Netherlands through the use of the criminal law

As observed above, the Dutch police, the customs authorities and the Public Prosecutions Department take vigorous action to combat the import of and trafficking in drugs. The investigating officers, customs officials and public prosecutors involved have put in a great deal of effort in recent years. A great deal of work has been done

in the Netherlands on the development of the new investigative techniques involved in crime analysis and this has resulted in more systematic investigations into criminal organisations, in which data from the Unusual Transactions Disclosures Office etc. is also used. In close cooperation with the Fiscal Intelligence and Investigation Department (FIOD), increasing use is being made of new statutory options for tracing and freezing assets obtained illegally and declaring them forfeit. The arrest of the leaders of about thirty highly organised criminal groups in the last two years bears witness to the fact that some success has been achieved in tackling criminal organisations.

The work of the police and judicial authorities helps to ensure that drugs remain relatively expensive for users and that people cannot deal in them openly. Like the tried and tested policy of keeping the markets for soft and hard drugs separate, this also helps to limit the number of people starting to use hard drugs for the first time. Because of the major efforts which are required to obtain enough money to buy hard drugs, this application of the criminal law probably also helps to persuade some older addicts to give up their addiction.

As in other countries, so in the Netherlands the endeavours of the criminal justice authorities to tackle drug trafficking have not resulted in a permanent fall in the supply of hard drugs. International markets continue to be able to supply drugs and the potential profits are so enormous that when dealers are arrested and criminal organisations dismantled, their places are as a rule rapidly taken by others. In this regard there is little prospect of lasting success. Here too it must be realised that national and international networks of criminal organisations are gradually acquiring an increasing amount of economic and financial power. It is estimated that the annual worldwide turnover on drugs is NLG 500 billion\*. The problem of the growth of criminal organisations, involved in drug trafficking and other areas of crime, is one facing large parts of the world and has the full attention of the member states of the United Nations, as was demonstrated at the conferences of head of government and ministers in Naples in 1994.

In the years ahead the government will make an active contribution to increasing awareness of and promoting a debate on this worldwide problem, which some people believe to be the inescapable result of banning the use of drugs under the criminal law. The government does not, however, share the view which is sometimes heard that the only remedy to the drugs problem is to completely legalise all drugs and that a differentiated policy geared to managing the problem is pointless. We will continue to make every effort to combat organised crime, including drug trafficking, through the criminal law and administrative measures.

#### 5.4. Bringing up to date the plan of approach to organised crime

First of all, for a description of the approach to organised crime up until a few years ago, reference should be made to the policy document, "De georganiseerde criminaliteit in Nederland; dreigingsbeeld en plan van aanpak" (Organised Crime in the Netherlands; Analysis of the Threat and Plan of Approach) and to the progress reports following it, the last of which was sent to the Lower House on 16 May 1995 (organised crime progress report of 16 May 1995; parliamentary papers 1994-95 22838 no. 14). These reports show that the investigation of criminal organisations by specialised teams is beginning to be successful. A separate unit has been created at the Public Prosecutions Department to coordinate the approach of the police and the

judicial authorities to organised crime; it is headed by a chief public prosecutor specially freed from other duties. The national investigation team which has previously been announced will become operational this year. It will concentrate in particular on financial investigations and on providing assistance in investigations instigated by other countries. It will therefore be primarily involved in the investigation of criminal organisations which operate internationally. This will mean that it will be possible to provide proper assistance with investigations into drug trafficking which have been started abroad.

Naturally, should there be any such need, the results and conclusions of the parliamentary enquiry will be taken into account in any further decision-making on this subject. What is already clear is that the investigation of criminal organisations will be stepped up in the years ahead. As soon as the conclusions of the parliamentary enquiry are known, the Minister of Justice and the Minister of the Interior will submit to the Lower House an updated plan of approach to organised crime.

As is well known, it is now much easier to carry out financial investigations. The government is encouraged by the cooperation provided by the banks, industry and relevant professions in combating the re-investment of the proceeds of crime. Partly as a result of the national and regional activities of the National Platform for the Control of Crime - a cooperative body involving industry, the professions and government, chaired by the Minister of Justice - people are significantly more alert to and able to resist creeping infiltration by criminal organisations. A number of municipal authorities are also taking measures to ensure that criminal organisations are given as little chance as possible. The up-dated plan of approach will also devote considerable attention to the use of administrative measures to combat organised crime.

#### 5.5. International cooperation in combating drugs

Illegal trafficking in drugs is an international phenomenon. Not only are countries of production and countries of consumption spread all over the world; those involved in trafficking are also constantly looking for new markets. To establish and maintain transport routes requires "employees" to be organised not only in the countries of production and consumption but also in the countries which the transport routes pass through. In combating illegal trafficking between countries of production and countries of consumption the emphasis is on detecting transport routes and couriers and interrupting supplies, whereas in the countries of consumption themselves the emphasis shifts to the dismantling of the entire organisation. These activities can only be successful if national investigation agencies in all the countries affected cooperate intensively and efficiently.

There has been a need for such cooperation for some time now, as evidenced by international agreements concluded with a view to preventing and combating illegal trafficking. At international level, the legal basis for cooperation is laid down in three United Nations conventions - the 1961 Single Convention on Narcotic Drugs, as amended by Protocol in 1972, the 1971 Convention on Psychotropic Substances and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Because of their global nature and the large number of states which have ratified them, these conventions provide a good basis for cooperation in criminal matters between countries of production and countries of consumption.

The three conventions are also used in cooperation between different countries of consumption but it has also been found that cooperation is more efficient if additional agreements are also reached. The Agreement implementing Article 17 of the above-mentioned United Nations Convention of 1988 was thus drawn up under the auspices of the Council of Europe; it provides for cooperation allowing the authorities of the different countries to act outside their own territorial waters against one another's vessels where drug smuggling is taking place. In the Convention implementing the Schengen Agreement a separate chapter is devoted to narcotics. The Treaty on European Union also contains provisions on combating unlawful drug trafficking, and other activities have also been developed under the auspices of the EU, such as the regulations and directives on precursors and the establishment of the Europol Drugs Unit as a forerunner of Europol itself.

Where appropriate, bilateral agreements are also reached. For example, in 1989 the Kingdom of the Netherlands concluded an agreement with Venezuela on curbing the abuse of, illegal trafficking in and the illegal production of narcotics, psychotropic substances and chemical substances related to them.

If these specific instruments are added to the range of general agreements on international cooperation in criminal matters (extradition, legal assistance in criminal matters, the transfer of criminal proceedings, the transfer of sentenced persons, confiscation of the proceeds of crime) and those on administrative assistance in customs matters which apply in the Netherlands and neighbouring countries, it is clear that a considerable range of instruments is available for use in the international investigation of drugs offences and the international criminal organisations involved in such offences which operate in those countries and in the prosecution of those committing such offences. It is not therefore our primary concern to add to this range of international agreements.

However, it would be desirable to improve the efficiency of international cooperation. This can be achieved through thorough analysis of the cross-border aspects of drug trafficking and the organisations involved. It is also important that international networks should be established and maintained at police, customs and judicial level, so that in practice investigations and prosecutions can be coordinated efficiently, taking into account the law of the respective countries, and the instruments provided by the above-mentioned conventions are used to best advantage.

As a result of more intensive cooperation, the number of requests for legal assistance in investigations and prosecutions connected with drugs cases is increasing in Europe. This means that international and national procedures must be simplified. The entry into force of the Convention implementing the Schengen Agreement considerably simplified many procedures for the states party to it, partly because requests for assistance can now be made directly by the police and public prosecutions authorities in one country to those in another.

In the Netherlands the increase in the number of requests for assistance has led to the realisation that the police, the Public Prosecutions Department and the Ministry of Justice must improve the way they deal with such requests. Now that it is no longer a question of the occasional request but rather of a steady stream of requests it is

essential that all relevant parties have structural arrangements for processing requests. Procedures have been or are in the course of being improved as far as possible, with the aid of computerisation, at the Ministry of Justice and in the Public Prosecutions Department and the police. At the same time attention is being devoted to coordination and the exchange of information. As stated previously, the police are also shortly to bring a national investigation team into operation.

On 1 July 1995 the Prevention of the Misuse of Chemical Substances Act came into force; its aim is to prevent the misuse of chemicals for the illegal production of narcotics and it contains provisions on the manufacture of and trade in precursors, though it should be said that approximately 90% of these are used perfectly legally. The Act meets the Netherlands' obligations under the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the EU regulations and directive based on it. Persons found guilty of contravening the Act may be deprived of any financial advantage they have obtained through their offence as well as facing a custodial sentence and/or a fine.

International legislation in this field seeks to combat the illegal trade in precursors throughout the world. The Economic Surveillance Department (ECD), which already has contacts with the chemicals industry by reason of other monitoring duties, has been charged with monitoring compliance with the new Act. Together with the National Criminal Intelligence Service (CRI), the ECD is setting up a central notification office at the ECD which will collate information on flows of precursors.

In consultation with the other Member States of the European Union and under the chairmanship of the European Commission, initiatives are being taken to achieve more extensive international cooperation, with the United States, the countries of the former Soviet Union and the ASEAN countries, for example.

#### 5.6. Cultivation of cannabis in the Netherlands

As explained in the introduction, obligations under international agreements prevent statutory provisions being adopted to regulate the supply of cannabis derivatives to coffee shops (cf. annex II). It must also be feared that such regulation would lead to lower prices and to confirmation of the image of the Netherlands as a drugs-friendly country, resulting in a further increase in drugs tourism. On account of obligations under international law, the government believes that such provisions could only be introduced if other relevant countries were to do the same.

The situation as regards the supply side of the market in cannabis products in the Netherlands has changed radically as a result of the emergence of cannabis grown in the Netherlands. This home-grown product, which is rapidly gaining in popularity, is giving rise to a new problem. The Netherlands is in danger of becoming a cannabis exporting country, exports being of the home-grown product, and everything possible must be done to prevent this happening.

The cultivation of cannabis in itself presents the Dutch authorities with considerable enforcement difficulties. Plants can be grown on a small scale, unobtrusively and indoors, which makes the practice difficult to detect systematically. The United States has also failed to reduce the cultivation of cannabis, which is there estimated to have a turnover of over US\$ 18 billion per year\*. It is inevitable that the police and judicial authorities in the Netherlands should have to set priorities of some

kind in tackling the illegal cultivation of cannabis. Moreover, it is known that in addition to the USA, cannabis is also being grown illegally in Belgium, Germany and Eastern Europe.

In 1994 323 illegal growers were detected in the Netherlands (237 in 1993). The number of plants seized rose from 194,000 in 1993 to 558,000 in 1994. 600 kilogrammes of cannabis grown in the Netherlands was also seized. Most cases involved small-scale indoor cultivation, for personal use, retail selling and wholesale selling. Less than 10% was accounted for by outdoor cultivation, while a little over 20% comprised cultivation in greenhouses or sheds. It is estimated that there are now several tens of thousands of domestic growers.

The phenomenon of small-scale domestic cultivation of cannabis faces the authorities with a dilemma. On the one hand, there is an observable trend towards bona fide coffee shops obtaining their supplies from networks of non-criminal domestic growers. This enables the coffee shops to avoid contact with criminal organisations. In view of the objective of giving organised crime as little scope as possible, this trend is a positive one. In principle, it would be possible for approximately 35,000 domestic growers - and it is estimated that there are more such growers in the Netherlands already - each cultivating an extremely modest quantity of cannabis, involving no more than a few plants each, to meet domestic demand for cannabis\*. There would then be no need for supplies to be obtained from criminal sources. On the other hand, there is a risk of some domestic growers at least being taken over by criminal organisations; indeed it has already been established that this is occasionally happening.

Clearly, enforceability is the decisive factor in the policy on investigation and prosecution as regards the cultivation of cannabis in the Netherlands. Consultations with the Procurator-General have revealed that it is extremely difficult in practice to detect small-scale domestic growers because they are almost invisible. The setting of priorities will depend in part on local circumstances and developments. The appropriate forum for decisions on such matters is the local tripartite consultative group. Policy will be supported by a range of administrative instruments. Under no circumstances will cultivation by minors be tolerated.

There are indications that Dutch cannabis growers occasionally succeed in raising the THC content of plants grown indoors, thus increasing the psychotropic effect. In 1994 the Forensic Laboratory examined 183 samples of cannabis, mostly grown indoors, to establish their THC content. The average proved to be 8%, which is the same as is generally found in cannabis from abroad. In the same year a THC content of 20% was found in a single example of Dutch cannabis. The use of cannabis with a high THC content can result in overdosing and panic attacks on the part of users. We will encourage the Forensic Laboratory to conduct systematic studies into the THC content of cannabis grown in the Netherlands. If necessary, the Public Prosecutions Department will be asked to adopt a particularly strict attitude to the cultivation and sale of cannabis with a high THC content, by taking it into account when proposing sentences, for example.

The cultivation of cannabis for export and/or as a form of organised crime should be accorded the utmost priority as far as investigation and prosecution are concerned.

The Netherlands must be prevented from becoming a country which produces and exports soft drugs, especially if those drugs entail unacceptable risks on account of their high THC content. To allow such a situation to develop without attempting to intervene would be unacceptable from a health point of view and would rightly meet with considerable criticism from abroad.

In order to be better able to respond to large-scale cultivation, the Minister of Justice intends to submit proposals to increase the current statutory maximum sentence of two years' imprisonment and a fine of NLG 25,000 to four years and a category five fine.

In this context it is also necessary to adopt a standpoint on statutory provisions governing the cultivation of cannabis for legal purposes. Under the terms of the Decree of 18 October 1976 (Netherlands Bulletin of Acts, Orders and Decrees 509) governing the implementation of section 3a, subsection 1, of the Opium Act, the cultivation of cannabis as a windbreak by farmers and market gardeners or for the purpose of obtaining the seeds or fibre (for use in rope making) is not covered by the Opium Act. Such cultivation is relatively rare in the Netherlands. The land area devoted to fibre cultivation is about 1000 hectares; about 100 growers are involved. This may change in the future. There appear to be opportunities for the cultivation of cannabis for use in the paper industry, for example, and a "back to nature" movement is being imported from the United States in which clothing and other products made using hemp are popular. Grants can be obtained from the EU for the cultivation of permitted varieties of hemp under annex B of EEC Regulation no. 1164/89 (the varieties concerned have a very low THC content).

Exempting the cultivation of cannabis for the above-mentioned purposes can give rise to problems with evidence if the police take action under the Opium Act and a grower of suspected psychotropic varieties claims to be exempt under the provisions governing fibre and seed growers. In the early stages of cultivation certainly it is not always easy to tell what the nature of the plants concerned is. In recent years, growers who could claim to be exempt on these grounds have also been prosecuted under section 87 of the Seeds and Planting Materials Act, which requires that growers wishing to engage in such cultivation must be affiliated to the General Netherlands Inspection Service for Field Seeds and Seed Potatoes (NAK).

Research has been conducted to establish whether it would be sensible to introduce a permit system for the cultivation of hemp for agricultural and horticultural purposes\*. There are a number of objections to this. Firstly, there would be the necessary administration, for what would be a small number of permits, and secondly there would be practical monitoring problems, since establishing whether plants in the fields accorded with the terms of the relevant permit would require highly specialised knowledge. It is not inconceivable that illegal crops could be masked by, for example, surrounding them with legal ones.

It would be better to limit exemptions under the above-mentioned Decree of 18 October 1976 to the cultivation in the open air of permitted varieties of hemp. This would make it absolutely clear that cultivation in glasshouses is always contrary to the Opium Act, irrespective of the plants involved.

In consultation with the Minister of Agriculture, Nature Management and Fisheries, we will endeavour to ensure that the Decree of 18 October 1976 is amended in such a way that it is easier to combat the large-scale cultivation of cannabis indoors and the cultivation of varieties which are not permitted.

Drugs policy in the Netherlands:

Conclusions and policy intentions

Health interests have always been at the forefront of Dutch policy on drugs over the last twenty years and in terms of these health objectives the policy can be considered to have been successful. The decriminalisation of the possession of quantities of soft drugs for personal use and the existence of sales points tolerated under certain circumstances by the authorities have not resulted in a worryingly high level of consumption among young people. Moreover, users of soft drugs do not as a rule tend to experiment with hard drugs, such as heroin or cocaine; this is indeed the intention of the policy of keeping the markets separate. There is little use of heroin and cocaine among minors in the Netherlands, and the trend is towards even less. This development compares favourably with those in most other countries in Europe. This difference probably also explains the different tone of the public debate in the Netherlands and elsewhere. In the Netherlands the drugs problem is no longer seen primarily as an acute health threat but rather as a source of nuisance. A more pragmatic and administrative approach is appropriate given the way in which the Netherlands today defines and experiences the problem.

The policy on drug addicts, which concentrates heavily on prevention and care, has helped achieve a situation where the health of addicts resident in the Netherlands also compares favourably with that in other countries. There is less widespread HIV infection among addicts and infection levels are falling. The mortality rate among addicts is low and is not increasing, as it is in many European countries.

The government regards the results achieved to date as grounds for continuing the principal elements of the pragmatic policy pursued up to now, which has been geared to controlling the damage done to health.

However, a number of negative implications have come to light which mean that certain aspects of policy must be amended. The criminal and general nuisance caused by both Dutch and foreign drug users has crossed a critical limit in many municipalities and must therefore be reduced. Such side effects also undermine support from society at large for a policy which is aimed at the social integration of users. In the years ahead Dutch drugs policy will continue to be aimed at combating the negative health effects of drug use but it will also be concerned to reduce the nuisance caused to the general public.

Amendments are also needed on account of the attraction which the Dutch drugs market exerts on users from neighbouring countries and the criticism of what is seen as the tolerant Dutch attitude that this has helped to engender abroad. Finally, the increasing involvement of criminal organisations in the supply and sale of drugs at home and abroad is a cause of the utmost concern. The growing economic power of organised crime is a major problem calling for urgent action in the Netherlands, as elsewhere.

Aside from these complications, policy must always take into account the constantly changing nature of the drugs problem. Heroin has acquired a "loser's" image among young people, while the use of synthetic drugs, such as ecstasy, is rapidly increasing. Depending partly on the context in which they are used, the latter can cause considerable harm to users' health. They are therefore classified as hard drugs, though they require an approach all of their own.

Another trend with major implications for policy is the intensive use of both soft and hard drugs within socially marginalised sections of the population. In the case of this target group treatment of addiction can only be effective if it forms part of a more comprehensive approach which also seeks to improve the training and employment prospects. The government's policy on the big cities, which is being pursued in close cooperation with the municipalities concerned and one of the aims of which is to integrate young people who are at risk of going astray, provides a good basis for such an approach.

#### The legalisation debate

There have for some time been those in the Netherlands who believe that the production and sale of drugs should not be criminal offences at all. They claim that this would drastically bring down the prices of drugs, as a result of which criminal organisations would lose their principal source of income. At the same time, addicts would not need to commit any more property offences to obtain money to buy illegal drugs.

The government believes that permitting the sale of hard drugs would bring with it a danger that more young people who are socially vulnerable would start to use such drugs, with all the risks to their health that this would entail. The government considers that these risks alone are sufficient reason to reject this option. The gratifyingly small and still falling number of addicts under the age of 21 represents an achievement which should not be jeopardised. The small number of minor addicts in Dutch towns and cities is after all one of the great successes of the Dutch drugs policy.

The situation is somewhat different as regards soft drugs. Dutch experience with coffee shops has shown that the greater availability of such drugs does not give in itself lead to increased use. The coffee shops serve a useful social function for young people, in that they act as a buffer against the criminal underworld associated with hard drugs. The question which arises is whether the supply of soft drugs to the coffee shops should not be legalised.

However, we do not consider that straightforward liberalisation, that is to say making the trade in soft drugs fully commercial, would be desirable. Use of such drugs should be discouraged, through public information campaigns, etc. What might be possible would be to introduce a state monopoly or a licensing system, which would certainly have advantages. It would be possible to reduce the role of criminal organisations in coffee shops. The international obligations which the Netherlands has taken upon itself stand in the way of such an approach, however. A licensing system would impose a considerable burden in the way of implementation and monitoring. Any decriminalisation of the cultivation of and/or trade in soft drugs would also probably attract more "drug tourists" from abroad, as a result of which the nuisance they cause would increase. It should also be remembered that if soft drugs were to be

legalised only in the Netherlands criminal organisations involved in the transport of drugs through the Netherlands to other countries would continue to exist and would have to be tackled just as before.

The government considers that the disadvantages outweigh the practical advantages. Any problems concerning the coffee shops can better be solved within the framework of the Opium conventions as they stand by amending the procedural policies of the Public Prosecutions Department and introducing administrative regulation.

The government will do all it can to participate in as effective a manner possible in European and international discussions on drugs policy. A major priority must be to provide factual information on the background to and results of Dutch policy. The government believes, however, that it has less scope for influencing the European debate than is sometimes thought. Normative considerations, which are determined by culture and ideology, inevitably play a large role in that debate.

The Dutch contribution to the European and international debate - a debate which the government believes is desirable - on the advantages and disadvantages of the legalisation of soft drugs should be made cautiously and with the appropriate awareness of the relativity of Dutch views on the subject. The approach to be adopted should include the establishment of relations with strategic partners abroad.

Representatives of Dutch industry who are concerned about the economic consequences of the government's drugs policy can contribute to this debate.

#### Integrated approach

The government has decided that in tackling the drugs problem it should maintain the course it embarked upon in the 1970s, albeit with a few adjustments. The response to the problem of addicts will, as in the past, be provided within a framework of prevention, care, treatment and punishment for criminal behaviour. That framework will, however, be modified to give greater emphasis to certain aspects.

Primary prevention will be geared more to the recreational use of new drugs such as ecstasy and to the more problematic use of drugs by socially vulnerable sections of the population. A national support system will be established to assist with the provision of information, the promotion of expertise and policy development.

The care provided will be better coordinated. For instance, the various forms of care such as methadone substitution programmes must tie up to a greater extent with projects relating to training, employment and housing. To a greater extent than in the past, addicts will be offered an integrated range of care, tailor-made to meet their needs, to which obligations as well as rights will be attached. More attention will also be paid to case management in this connection.

The need for a more flexible and more integrated range of prevention and care options also means that a clear policy and financing strategy is required. In view of this the government has decided that research should be conducted to establish whether the current regional approach to out-patient care for addicts based around 23 municipal centres should continue after the Temporary Act for the Promotion of Social Renewal expires on 1 January 1997. In view of the need to monitor the

problem of addiction we will also establish statutory provisions governing participation in the national system for the provision of information.

#### Tackling nuisance

In order to tackle the problems of nuisance and crime which have arisen, an integrated approach is required, to which all parties - central government, municipal authorities, the Public Prosecutions Department, the police, the probation service, the prison service and those responsible for caring for and treating addicts - contribute in a coordinated fashion. As regards the use of hard drugs, the efforts of the local authorities, the police, the Public Prosecutions Department and care providers should be geared to improving the behaviour of addicts. The fact that the use of drugs is not in itself a criminal offence does not mean that addicts are free to commit property offences, act aggressively or engage in behaviour which causes a nuisance. Addicts who commit such offences will be brought to book.

Intensive cooperation by all the bodies involved is required if these side-effects of drug use are to be kept within acceptable bounds. We believe that attention must be devoted to making the behaviour of addicts more socially acceptable as part of the care they receive, though this must be done in a way which does not frighten them away from seeking assistance. A chain approach is essential in this.

First of all, it is important that the preventive approach be strengthened. The programmes of action which have been announced for the big cities, in which the social problems affecting young people are to be tackled in an integrated manner, provide the necessary foundations. By improving the social prospects of socially vulnerable young people it will be possible to tackle the problems at the roots. There should be a low threshold to care for addicts, and a good range of care options should be available. It is essential for social prospects, in the form of training and employment, for example, to be created for people using the care services for addicts too. At the same time, corrective action will have to be taken against addicts who continue to subsidise into criminal and anti-social behaviour. Addiction agencies too should implement these policy principles. Finally, to enable this chain approach to work, there will be sufficient cell space to be able to punish persistent offenders, including those who infringe municipal nuisance bye-laws.

The prevention and control of nuisance caused by drugs is emphatically one of the safety aspects covered by the big cities policy. The government has made additional funds available for this policy and other purposes for the next four years (a total of NLG 375 million for the living and working environment and public safety together). At the same time it was agreed that the four biggest cities (The Hague, Rotterdam, Amsterdam and Utrecht) would take the lead in establishing tighter central coordination at regional level, in order to ensure a consistent and integrated approach. Care providers, the police, the judicial authorities and the probation service are all directly involved. The budget for the renewal of care aimed at reducing nuisance resulting from drug use was NLG 37 million for 1995 and from 1996 will be increased by NLG 12.5 million (to NLG 49.5 million per year therefore).

An Inter-administrative Task Force on Public Safety and the Care of Addicts is to be set up to ensure that the policy intentions of the government and of the big cities as regards safety and nuisance from drug addicts are implemented appropriately. The responsibilities of this Task Force, which will comprise mandated coordinators from

central government and the municipalities, will be to monitor the speedy implementation of the policy intentions on nuisance caused by drug use contained in the present policy document and to make recommendations to the municipal authorities and government ministers concerned if any danger of delay arises in either quarter.

In imitation of the successful police operation (code-named Victor) which was conducted in Rotterdam early in 1995, police and prison capacity will be reserved on a permanent basis for the specific investigation of Dutch and foreign drug addicts who cause nuisance. Where necessary, foreign addicts (including EU subjects) arrested on account of having committed offences will be deported immediately. Cooperation will be stepped up with the police and judicial authorities in neighbouring countries. Within the framework of the EU and elsewhere efforts will be made to ensure that care for addicts in relevant countries is improved so that the Dutch courts are better able to place foreign addicts in addiction clinics etc. in their country of origin.

The Minister of the Interior will put before Parliament a bill to give municipalities greater powers to seal dwellings from which drugs are being trafficked. In imitation of the Amsterdam initiative, offices at which nuisance caused by drugs can be reported, which will also have a role in mediation and information gathering, are to be set up around the country.

To date, residential care has been almost entirely devoted to attempts to ensure that patients come off drugs completely and permanently. In the case of most addicts, this objective is too ambitious, certainly in the short term. Residential care will more often have to accept improving the extent of a patient's social conformity as a subsidiary, if not principal, objective. Where necessary and possible such treatment will be carried out at the order of the criminal courts.

In 1996 a forensic addiction clinic is to be opened. It is intended for addicts who have committed serious offences and require intensive care. The clinic will ultimately have 70 places.

As part of the policy to reduce nuisance, which is already under way, more scope will also be provided for what are known as "compulsion and dissuasion" projects, the aim of which is to use the threat of detention as an incentive to addicts who have committed relatively seriously offences to undergo residential or out-patient treatment. Intensive supervision by the probation services, with checks to ensure that conditions are being met, link up with these projects. The Minister of Justice will request the Public Prosecutions Department to make 500 of the additional cells which will be ready in 1996 available for this purpose.

As part of the policy on the big cities, one or more trials will be conducted involving the detention of addicts who are causing a serious nuisance by committing series of minor offences (including property offences) and/or by engaging in aggressive behaviour, under conditions in which attempts can be made to reintegrate them into society. One of the jobs of the Inter-administrative Task Force on Public Safety and the Care of Addicts referred to above will be to bring this about. Placement in this institution for the care of addicts will for the time being be achieved by making such placement a condition for the suspension of a custodial sentence. In order to

create an appropriate legal basis for the new approach, the Minister of Justice will put before Parliament a bill to establish a criminal law measure for the care of addicts, partly by analogy with that under which beggars and tramps could be placed in a state labour institution, which has now fallen into disuse.

The courts will be able to order a person to be placed in care compulsorily for a minimum of three months and a maximum of one or two years. The municipalities will be responsible for providing training and work experience. The municipal authorities in the four big cities have promised their full cooperation in the realisation of the plans. Those in Rotterdam and Amsterdam have also already said they are willing to help with financing. A start will be made with a trial in the municipality of Rotterdam involving approximately 100 places. The Task Force will draw up proposals for expanding the scheme elsewhere to include at least 300 places, at least 100 of which will be made available to Amsterdam.

#### Experiment with the provision of heroin

The government was greatly impressed by the report from the Health Council on the provision of heroin and other opiates on medical grounds. We will consult with those municipal authorities which are interested on the implementation of one or more small-scale trials to be conducted on a strictly medical basis. The objective of providing heroin in this way is to improve the health and social condition of addicts. Any positive effects on the problems of crime and public nuisance should be regarded as highly desirable side effects; they will also be taken into consideration in the evaluation. A start will be made with a pilot study involving no more than fifty addicts.

#### Combating drug trafficking through the use of the criminal law

Trafficking in hard drugs will continue to be tackled using the full weight of the criminal law, and cooperation with other countries will be stepped up. One of the responsibilities of the national investigation team will be to provide cooperation with foreign investigations. The aim of this approach is to keep the financial and social barriers to the use of hard drugs as high as possible and to combat the involvement of the Netherlands and its citizens in international trafficking in such drugs. The sale of hard drugs to schoolchildren will be severely punished. Greater priority will be given to investigating leading figures behind local hard drug trafficking.

Tackling organised crime through the criminal law in general requires considerable sacrifices from the Netherlands government and society. Given the seriousness of the present situation, however, the government considers it inevitable that these sacrifices must be made. The Minister of Justice and the Minister of the Interior will submit an updated plan of approach for tackling organised crime to the Lower House as quickly as possible after the parliamentary enquiry into organised crime has been completed.

#### Coffee shops

Under guidelines issued by the Public Prosecutions Department, the investigation of the sale of soft drugs in certain catering establishments not licensed to sell alcohol which meet a number of strict conditions is afforded no priority. Bona fide coffee shops have demonstrated that they help to shelter users of soft drugs from the world of hard drugs. This policy of tolerating such establishments irrespective of the criminal law will therefore be continued. The practice which exists de facto already, namely that proprietors who stick to the conditions set need not fear prosecution for

the possession of several hundred grammes of cannabis for sale in their coffee shop, will be formalised by inclusion in the Public Prosecutions Department guidelines.

The sale of hard drugs within the shops is diametrically opposed to the central objective of the coffee shop policy. The full force of the criminal and administrative law will therefore always be brought to bear where this occurs.

We have reached the stage when coffee shops need a better administrative basis. In view of the responsibility of local authorities for public order and safety, they should ensure that coffee shops are situated and run in such a way that they cause as little nuisance as possible. The restriction of the sale of soft drugs to a particular kind of establishment, namely catering establishments in which no alcohol is served, means that it is possible for public order policy to be enforced at local level. Other local regulation is also desirable, in order to allow establishments to be assessed in advance more strictly, as regards both their design and the proprietor and manager. People with criminal records will not be allowed to own/run a coffee shop.

Such modified regulations and the additional efforts which will be required to ensure that they are observed will help regulate coffee shops as an institution. Enforcement will necessitate practical agreements between local authorities, the police and the Public Prosecutions Department in the tripartite consultations. Most larger municipalities have already decided drastically to reduce the number of coffee shops, in many cases to less than half the present number. The government supports this. No coffee shops at all will now be allowed near schools. In principle, those involved in the tripartite consultations in a particular municipality may decide to adopt the zero option if there is no real demand locally for such an establishment.

As part of the general review of the Licensing and Catering Act, consideration will be given to how municipalities can be granted greater powers to refuse and withdraw the relevant licences.

The Task Force on Public Safety and the Care of Addicts referred to above will be asked to set up a panel comprising experts on the administrative and judicial aspects of drugs policy, including the regulation of coffee shops, to assist local authorities, the police, the Public Prosecutions Department and schools.

The amount of soft drugs whose sale in coffee shops will be tolerated is to be limited to 5 grammes per customer. Coffee shop proprietors who engage in the sale of quantities of soft drugs for personal use which are obviously for export will be prosecuted wherever possible as accessories to the offence of international trafficking. Regular, targeted investigations will be carried out into foreigners who export quantities of soft drugs to their own countries which could be used for trading purposes in order to frighten off others. Where necessary, the authorities in other countries will be asked to assist with such operations. These adjustments to the guidelines will put a brake on the export to neighbouring countries of quantities of soft drugs for personal use.

The emergence of cannabis cultivated in the Netherlands requires a clear policy to be established. The Minister of Justice plans to put before Parliament a bill increasing the statutory maximum penalty which may be imposed for the cultivation of cannabis

from two to four years imprisonment. In investigating and bringing prosecutions in respect of the cultivation of cannabis in the Netherlands priority will be given to large-scale, professional operations. This will help to prevent Dutch cannabis becoming an export product. The domestic cultivation in the Netherlands by people who have reached the age of majority of small amounts of cannabis, which meets the conditions laid down in local tripartite consultations, will be accorded no priority in respect of investigation and prosecution.

We consider the integrated approach described above, which includes both administrative measures and criminal law sanctions, to be a significant improvement in the way we deal with coffee shops. It may also help weaken the influence of criminal organisations over coffee shops. The latter consideration will be a crucial point in the assessment of the policy on coffee shops in the years ahead.

#### Research and statistics

The EU has set up a number of initiatives aimed at reaching a better understanding of the extent of and changes in drugs use in Europe, and the European Monitoring Centre for Drugs and Drug Addiction has been set up in Lisbon.

The various UN agencies and the Council of Europe (Pompidou Group) also conduct regular studies on the subject. The Netherlands government attaches great value to the production of improved and comparable statistics and research data on drug use. Such information would enable the effects of current policy to be determined more accurately, which would mean that discussions on policy could be more substantive and less dominated by preconceptions and opinions. It is expected that this will gradually help lead to a better understanding of the principles and effects of the Netherlands' drugs policy. The government will take steps to expand the statistical and scientific programme relating to drug use, partly within the framework of EU and UN initiatives.

As part of the renewal of care, which is to include aspects of the nuisance problem, more attention will be paid to monitoring and evaluation; regular user studies will be conducted, for example.

In cooperation with the Dutch Association of Care Organisations for Addicts (NeVIV) a start has been made on quality development. The Minister of Health, Welfare and Sport will also promote studies to evaluate preventive measures. The Organisation for Future Scenarios in Health Care (Stichting Toekomstscenario's Gezondheidszorg) has been commissioned to draw up future scenarios for the addiction problem as well\*. Here too attention will be devoted to the European context of the problem.

Evaluation of the policy on coffee shops will also look at whether they do indeed keep the markets for soft and hard drugs separate, and at the effects of municipal policy on limiting nuisance.

#### In conclusion

We are under no illusions that this policy document sets out a blueprint for drugs policy in the Netherlands for many years to come. Drug use is constantly changing. A pragmatic policy, that is to say one geared to practical results, must therefore be flexible. We believe that this policy document, which is based on an objective analysis of the current situation, sets out a course for drugs policy which is

constructive and realistic and makes some balanced concessions to criticisms at home and abroad. The policy which has been outlined is aimed at continuing the specifically Dutch, humane policy of encouraging the social integration of drug users while setting limits to the anti-social excesses associated with the drugs problem. There may still be some inconsistencies in some aspects of the policy. It should be borne in mind that drugs policy is an exercise not in logic but in controlling a persistent and multi-faceted problem which is subject to the influence of social and cultural developments at home and abroad which may change rapidly.

Both drug use and drugs policy are in a state of considerable flux internationally as well as domestically. The policy set out in this document builds upon the foundations laid in years gone by while providing the opportunity for a rapid response to new national and international developments. We believe that the policy document represents a responsible step forward in drugs policy.

\* Minister of Health, Welfare and Sport

B. Borst-Ellers

\* Minister of Justice

W. Sorgdrager

\* State Secretary for the Interior

J. Kohnstamm

Estimate of the annual financial implications of the policy document on drugs

(in NLG)

General

1. Increased provision of information and promotion of expertise on Dutch drugs policy at home and abroad; support for municipalities, the Public Prosecutions Department and the police in the implementation of the policy on coffee shops 1.2 million

(VWS,Justice BIZa)

2. Stepping up investigations of criminal organisations, inter alia by financial investigations and by cooperating with international investigations 8 million

(BIZa,Justice)

3. Monitoring designer drugs, THC content and regular user studies 2 million

(VWS,Justice)

Nuisance

4. Stepping up policy on nuisance in accordance with nuisance policy document

12.5 million

(VWS: 11.15;

Justice: 1.35)

5. Trial of treatment in a closed setting involving activities to help in the social rehabilitation of addicts through training and work experience; three years, starting in 1997\* 8 million

(GSB budget, Municipality of Rotterdam)

Drug tourism

6. Promotion of cross-border cooperation involving the police, administrators and care providers 0.6 million

(BIZa: 0.4;VWS: 0.1; Justice: 0.1)

Renewal

7. Provision of heroin\* (contribution to municipal trials) 4 million

(VWS)

8. Policy on quality, evaluation and improvements in prevention; public information campaigns 1.5 million

(VWS: 0.85;

Justice: 0.65)

9. Forecasts for the future 0.6 million

(VWS,Justice, BIZa)

Total 38.4 million

Key: VWS = Ministry of Health, Welfare and Sport Justice = Ministry of Justice

BIZa = Ministry of the Interior GSB = Municipal Social Services

The money needed for the implementation of these plans has been reserved in the existing budgets of the Ministry of Health, Welfare and Sport, the Ministry of the Interior and the Ministry of Justice and in budget categories relating to the policy on the nuisance caused by drugs (Steering Committee for the Reduction of Nuisance (SVO) ) and to the policy on the big cities.

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## Appendix

### Annex 1

Number of drug addicts  
(in thousands)

Member States O + S

1989-1993 CEG-2nd report on demand red.

1992 CEG-1st report on demand red.

1990 L'Expresse

(7 Oct. 1993) WHO

1985-1990 NIAD

1990-1991

Belgium	15 - 20	?	10 - 20	20	?	15 - 20	
Denmark	10	10	10	20	10	10	
France	150	150	100	120	120 - 150	150	
Germany	80-100		80	60 - 80	100	90 - 140	100 - 250
Greece	?	?	9 - 13	30	40 - 50	10 - 20	
Ireland	2	?	?	20	3.5	2	
Italy	150-200		150	?	150	100 - 200	150 - 200
Luxembourg	1- 1.5	?	1.8	2	1.2- 1.5	1 - 1.5	
Netherlands	15- 20	21	20	3	22 - 24	22	
Portugal	?	?	40 - 50	50	40 - 50	40 - 50	
Spain	120	?	?	100	?	120	
United Kingdom	150-200		35-90	?	100	?	150 - 200
Total	693-823.5	446-501		250.8-294.8	742	426.7-629	770
	-1,045.5						

Source: Commission Model for Action Plan and Drugs (1995-1999)

Commission of the European Communities, June 1994.

### Annex II

Principal policy intentions indicated in the policy document on drugs

General

1. Neither hard nor soft drugs to be legalised.

2. Continuation of policy geared to market separation and harm reduction, with a tightening up in certain areas:

- \* renewal of care;
- \* more action to combat nuisance and crime;
- \* organised crime to be tackled;
- \* more consultations with other countries.

3. Integrated approach: prevention, care, social rehabilitation and penalties under the criminal law for criminal behaviour and nuisance.

More specific measures

1. Establishment of national support office to provide information, improve expertise and develop policy on drugs prevention.

2. Statutory provisions on participation in national information collection system to monitor the addiction problem.

3. Research to establish how regional non-residential care for addicts should be financed when the Temporary Act for the Promotion of Social Renewal (TWSSV) comes to an end.

4. Renewal of care for addicts:

- \* greater range of residential care to be provided;
- \* more attention to be paid to prevention and "socialisation" of addicts;
- \* trial involving the provision of heroin to older, untreatable addicts;
- \* increased capacity in compulsion and dissuasion projects (500 places in consultation with Public Prosecutions Department);
- \* opening of forensic addiction clinic (70 places).

5. Establishment of Inter-administrative Task Force on Public Safety and the Care of Addicts (central government, municipalities, Association of Netherlands Municipalities), in conjunction with the policy on the big cities.

6. Establishment of panel of experts to assist municipalities in tackling the problem of nuisance using administrative powers and in pursuing a policy on coffee shops:

- \* case law studies;
- \* development of proposals for local coffee shop policy;
- \* offices where nuisance can be reported;
- \* exchanges of information.

Bill on the sealing of dwellings.

7. Strict approach to drug tourists who cause nuisance (specifically targeted investigations and immediate deportation).

8. Bill on a criminal law measure allowing addicts who frequently commit offences or cause nuisance to be taken into care compulsorily; trial using such a measure in Rotterdam (100 places).

9. Amount of soft drugs whose retail sale is tolerated in regulated coffee shops to be reduced from 30 grammes to 5 grammes; more monitoring of exports.

10. Inclusion in Public Prosecutions Department guidelines of the amount of soft drugs coffee shops will be permitted to stock for sales purposes (a few hundred grammes).

11. Bill to increase the maximum penalty for the cultivation of cannabis.

12. Priority to be given to the investigation of the large-scale cultivation Dutch cannabis.

13. No priority to be given to investigating the small-scale domestic cultivation of Dutch cannabis within limits to be set locally.

14. Investigation of criminal organisations to be stepped up (national team).

15. More priority to be given to investigating those who control drug trafficking at local level.

16. Plan of approach to tackle organised crime after completion of enquiry.

17. Promotion of cross-border cooperation between the judicial authorities, the police, administrative authorities and care organisations.

18. Greater attention to be paid to research, monitoring and evaluation:

- \* regular user studies;
- \* projects on quality;
- \* evaluation of preventive measures;
- \* future scenarios;
- \* coffee shop policy;
- \* THC-levels;
- \* synthetic drugs

### Annex III

Conclusions from the report by J.J.E. Schutte, Director of the Legal Service at the Council of the European Union and former professor of international criminal law at the University of Amsterdam, on the obligations arising from international law concerning the enforcement by the public authorities of provisions on narcotic drugs and psychotropic substances by which the Kingdom of the Netherlands is bound\*.

The legal implications of legalising cannabis and cannabis products

Taking as a hypothesis the possibility that it might be asked what the consequences would be with regard to international law if the Netherlands unilaterally decided to legalise the market in cannabis and cannabis products, that is to say to repeal the provisions making it a criminal offence to cultivate cannabis plants for purposes other than those legitimate ones recognised in the 1961 Single Convention, or to produce, possess or traffic in cannabis and cannabis products (irrespective of whether or not it was decided that the import, export and transit of such substances should continue to be criminal offences), in the light of the above the following conclusions may be drawn.

1. The 1961 Single Convention on Narcotic Drugs, as amended by protocol in 1972, would have to be denounced, since a decision of the above nature would be incompatible with the obligations arising from article 2, paragraphs 1 and 5, article 4, article 36 and article 49. In the light of article 50, paragraph 3, of the Convention, there would be little chance of again becoming a Party to the Convention while entering a reservation with regard to the criminality of various acts concerning cannabis and cannabis products; it is probable that those countries which do not wish to make a formal distinction between hard and soft drugs would oppose such a reservation and that they would make up more than one third of the total number of Parties to the Convention.

2. Such a decision would not bring the Netherlands into conflict with the Convention on Psychotropic Substances.

3. The 1988 UN Convention against illicit traffic in narcotic drugs and psychotropic substances would have to be denounced, as such a decision would be incompatible with the obligations arising from article 3. Unlike the 1961 Single Convention, the Convention does not contain any specific provisions on reservations, so that at first sight there would appear to be fewer legal obstacles to the Netherlands once again becoming Party to the Convention, while entering a reservation. In

practice, however, a similar degree of opposition could be expected from other Parties to the Convention as to a similar reservation in respect of the 1961 Single Convention.

4. Such a decision would bring the Netherlands directly into conflict with the 1985 Schengen Agreement on the gradual abolition of controls at common borders.

5. The 1990 Convention implementing the 1985 Schengen Agreement, however, would present an obstacle to such a decision, which would be incompatible with article 71, which assumes full compliance with the 1961 Single Convention, as amended by protocol in 1972, and with the 1988 UN Convention. The Convention implementing the Schengen Agreement, article 137 of which prohibits reservations (except those referred to in article 60, which are not relevant here), does not contain any provisions governing denunciation. This means that article 56 of the Vienna Convention on the Law of Treaties applies in respect of the possibility of denouncing the Agreement; the first paragraph of that article reads as follows:

A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

1. it is established that the parties intended to admit the possibility of denunciation or withdrawal; or
2. a right of denunciation or withdrawal may be implied by the nature of the treaty.

There are no indications that the Contracting Parties to the Agreement intended to make denunciation or withdrawal from the Agreement possible and the nature of the Agreement also appears to preclude this. After all, according to its preamble, the intention of the Convention was to achieve a goal corresponding to the objective of establishing a single market formulated in the Treaty establishing the European Community. That objective cannot be called into question by denunciation of an Agreement which puts into practice the principle of the free movement of persons within an area without internal borders.

It must be concluded that the Convention implementing the Schengen Agreement cannot be denounced; at most it can be amended or replaced by Community law or agreements between all the Member States of the European Union (cf. articles 134, 141 and 142 of the Convention implementing the Schengen Agreement).

6. The Council of Europe Convention on drug trafficking by sea of 31 January 1995 obliges states party to it to apply it to all criminal offences referred to in article 3, paragraph 1, of the 1988 UN Convention. In accordance with article 31, paragraph 1, of the Council of Europe Convention, reservations may only be entered in respect of two provisions, neither of which are of relevance in this context. A decision as described above would result in the Kingdom of the Netherlands being unable to become or remain a Party to the Convention, unless the decision did not apply to acts outside the Netherlands.

7. Such a decision would not bring the Netherlands into conflict with other Council of Europe conventions on cooperation in criminal matters.

8. Nor would it bring the Netherlands directly into conflict with the Treaty on European Union.

9. Article 1 of Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering contains a definition of "money laundering" which is derived from the corresponding definitions in the 1988 UN Convention and the Council of Europe Convention of 8 November 1990 on laundering, search, seizure and confiscation of the proceeds from crime. The definitions include descriptions of aiding, abetting, facilitating and counselling the commission of certain criminal activities. The Directive defines "criminal activity" as:

a crime specified in Article 3(1)(a) of the Vienna Convention (i.e. the UN Convention of 1988) and any other criminal activity designated as such for the purposes of this Directive by each Member State.

Article 2 of the Directive goes on to provide that the Member States must ensure that money laundering as defined in the Directive is prohibited. In Dutch legislation money laundering offences are deemed to constitute the criminal offence of "handling". This involves acts relating to objects - including money - which the person committing the act knows or might reasonably have suspected to have been obtained through the commission of an offence. Under the provisions of the Directive acts of handling involving money derived from the offences referred to in article 3, paragraph 1, of the 1988 UN Convention have to be prohibited. If certain forms of the production of or trafficking in cannabis or cannabis products were no longer regarded as indictable offences, carrying out acts relating to the proceeds from that production or trafficking would also cease to be covered by the provisions on prohibited acts of handling. The question is whether this would give rise to a violation of Community obligations, a question which should be seen in the light of the statement by the Representatives of the Governments of the Member States, meeting within the Council, which was adopted at the same time as the Directive and published in the Official Journal of the European Communities. It reads as follows.

The representatives of the Governments of the Member States, meeting within the Council,

Recalling that the Member States signed the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances, adopted on 19 December 1988 in Vienna;

Recalling also that most Member States have already signed the Council of Europe Convention on laundering, tracing, seizure and confiscation of proceeds of crime on 8 November 1990 in Strasbourg;

Conscious of the fact that the description of money laundering contained in Article 1 of Council Directive 91/308/EEC derives its wording from the relevant provisions of the aforementioned Conventions;

Hereby undertake to take all necessary steps by 31 December 1992 at the latest to enact criminal legislation enabling them to comply with their obligations under the aforementioned instruments.

The reasoning for this statement is that in the opinion of the Council an obligation to make money laundering a criminal offence cannot be imposed by Community law but is purely a consequence of obligations which the Member States have taken upon themselves under the UN and Council of Europe Conventions mentioned above. If this interpretation is correct, a decision to legalise certain acts relating to cannabis and cannabis products would not violate the obligations arising from the Directive.

A somewhat different issue is whether the intergovernmental statement adopted at the same time as the Directive constitutes an instrument which can be equated with an international agreement and which imposes binding obligations on the Member States vis-à-vis one another. What is certain is that the statement was in any event not subject to the constitutional procedures prescribed for the approval of international agreements in the Netherlands and does not on the other hand fall into any of the categories of international agreements which do not require parliamentary approval. It must be concluded therefore that the Netherlands government in any event regarded the statement only as a political declaration, which is at most binding on the government of the day but not on the Kingdom of the Netherlands as such.

In this situation it could be concluded that a decision in favour of legalisation would not violate obligations under international law arising from the Directive or the accompanying statement.

10. The obligations which arise from the regulations and the Directive on monitoring substances which can be used for the illegal manufacture of narcotic drugs and psychotropic substances would appear not to be directly affected by a decision to legalise cannabis and cannabis products. The precursors covered by these Community instruments are named in the lists, which are divided into three categories and which are provided in the identical annexes to the various instruments. The category 3 substances include a number which could play a role in the manufacture of cannabis products, namely acetone, ethyl ether and toluene, though they also play a role in the manufacture of certain hard drugs. However, the category 3 substances are subject to the least stringent regulations. In the Regulation (900/92, amending Regulation 3677/90) article 5a contains provisions governing the export of these substances from the Community, in which regard the main concern would, on the basis of the provisions of paragraph 1b, appear to be the illegal manufacture of heroin or cocaine in certain third countries. On the other hand, article 6, paragraph 2, states that without prejudice to the administrative measures for which the Regulation provides:

... the competent authorities of each Member State may prohibit the introduction of scheduled substances into Community customs territory or their departure from it, if there are reasonable ground for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances

The only provision in the Directive (92/109/EEC) which is of relevance to category 3 substances is article 5, which obliges the Member States to take the

necessary measures to ensure that close cooperation is established between the competent authorities and the operators, so that operators:

- notify the competent authorities immediately of any circumstances, such as unusual orders or transactions involving scheduled substances, which suggest that such substances to be placed on the market or manufactured, as the case may be, may be diverted for the illicit manufacture of narcotic drugs or psychotropic substances,

- provide the competent authorities in summary form with such information about their transactions involving scheduled substances as the competent authorities may require.

A decision to legalise the production of cannabis and cannabis products in the Netherlands could result in the Regulation and Directive being applied somewhat differently in the Netherlands than in other Member States. It would not appear that this would constitute a violation of the said instruments, however.

11. Such a decision would not conflict with obligations arising from the Regulation on the establishment of a European Monitoring Centre for Drugs and Drug Addiction.

12. As the term "illicit drug trafficking" is not defined in the Joint action concerning the Europol Drugs Unit, a decision in favour of legalisation would not bring the Netherlands directly into conflict with its provisions.

13. The Convention establishing Europol does not oblige the Member States to make the acts over which Europol has or will have jurisdiction criminal offences. The definitions given of various categories of crime in article 2, paragraph 5, and in the annex to article 2, are intended to define the scope of Europol's jurisdiction as determined by subject-matter. The provisions at the end of the annex to article 2, which state that the types of crime referred to in article 2 and the annex to it are to be assessed by the competent national authorities in accordance with the national legislation of their respective states were drawn up to enable different views to apply in the different Member States on the need to make the acts referred to in article 2 and in the annex criminal offences and on the manner in which this should be done.

This leads one to the conclusion that strictly speaking a decision in favour of legalisation would not bring the Netherlands into conflict with obligations arising from the Europol Convention.

14. The same conclusion must be drawn in respect of the various regulations on international administrative assistance in customs matters. Where such regulations refer expressly to illegal international drug trafficking, the concept is not defined.

15. The implications of the provisions on cooperation in combating narcotic drugs in mixed agreements between the European Community and its Member States and third states cannot fully be foreseen. The provisions in themselves are couched in fairly general terms and appear more to enunciate general principles than concrete obligations. It should be borne in mind, however, that a specific executive agency tends to be set up for each such agreement, whether in the form of an association

council or under some other title, comprising members of the Council of the European Union and members of the European Commission on the one hand and members of the government of the third state on the other. On paper, such bodies have far-reaching powers. They have the authority, for example, to take decisions in all instances provided for by the agreement to ensure that the objectives of that agreement are met.

Such decisions are then binding on the Parties, which are obliged to implement them.

This means that such councils also have the authority to take decisions which are binding on the Parties under specific provisions on narcotic drugs.

It is important to point out that the "Parties" to such agreements are on the one hand the Community and its Member States and on the other the third State. It is not therefore a case of each Member State of the European Union being a separate Party to the agreement.

This is also evidenced by the fact that such agreements can only be denounced by one of the two Parties, that is to say the Community and all its Member States jointly, or the third State. The Netherlands cannot unilaterally withdraw from obligations which may arise from such agreements.

The position of the Community and its Member States with regard to decision-making in such councils is determined in advance, in accordance with the procedures which apply to decision-making on the subject in question within the Union. In so far as combating drug addiction and unlawful drug trafficking, as referred to in article K.1 of the Treaty on European Union, is concerned, this means that a position is adopted unanimously (cf. article K.4, paragraph 3, of the Treaty on European Union). The Netherlands could therefore exercise its veto in such a situation if proposals were to be made which would impose an obligation to take measures which would not be possible without amending Dutch legislation or changing the principles of Dutch policy.

In view of the relative recentness of mixed agreements containing specific provisions on cooperation in combating narcotic drugs, no relevant decisions implementing such agreements exist as yet.

16. In defining narcotic drugs, Article I of the bilateral agreement with Venezuela refers to the substances which are listed as such in the 1961 Single Convention, as amended by protocol in 1972. These include cannabis and cannabis products. Article II obliges the parties to join forces in carrying out specific programmes against drug abuse and to prevent, control and curb unlawful trafficking in and production of the drugs and substances referred to in Article I. If, as a result of a decision in favour of legalisation, the Kingdom of the Netherlands were to denounce the 1961 Single Convention this would affect the agreement with Venezuela. It would appear that the agreement would have to be amended if such a decision were taken. If the other party objected, the agreement could be terminated under the terms of article XI, possibly only in respect of the European territory of the Netherlands.

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