



## Ship operators at increased risk of drug smuggling

Commercial carriers are not willing participants in the trafficking of drugs, but they may be exposed to various losses including fines if drugs are found on-board. The P&I cover for fines arising out of smuggling was changed at the start of the 2021 insurance policy year. It is important that Members are aware of the change, the increased exposure and how to deal with the challenges related to smuggling when operating ships.

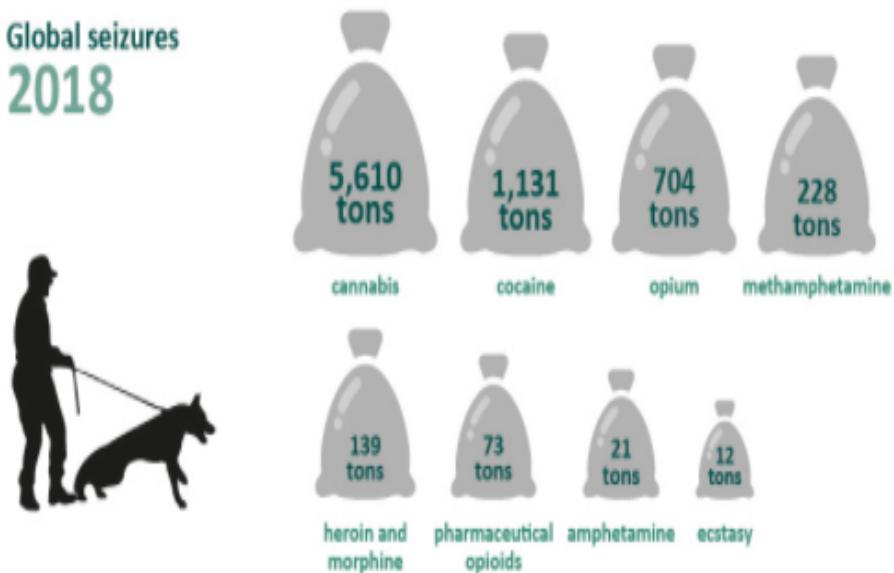
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## Where trafficked drugs come from and where they are going

In its [World Drug Report 2020](#) the United Nations Office on Drugs and Crime (UNODC) states that illicit drug use has been on the increase in the five-year period to 2019. Drug use is more widespread in developed countries but rising more rapidly in developing countries. The UNODC report is based in part on global drug seizure data to analyze trends including smuggling routes. UNODC reports that Colombia remains the country where most coca leaf (used to produce cocaine) is grown, accounting for about 70 per cent of the global area under coca cultivation followed by Peru and Bolivia. Afghanistan accounts for the majority of global opium production. Opium is used to produce heroin and morphine.

According to the report's [2018 seizure data](#), cannabis topped the list for the amount of drugs seized followed by cocaine and opium. Unlike other plant-based drugs, for which cultivation and production is concentrated in a limited number of countries, cannabis is produced in almost all countries worldwide. Most of the cannabis herb produced in a region continues to be consumed within that same region. Thus, a region's cannabis trafficking remains mainly intraregional and is mostly by road, rather than by sea or air. This article looks at maritime trafficking routes for cocaine and opium derivatives - heroin and morphine.



*Cannabis topped the list for the amount of drugs seized followed by cocaine and opium. Source UNODC 2020 World Drug Report*

## Maritime transport routes of cocaine

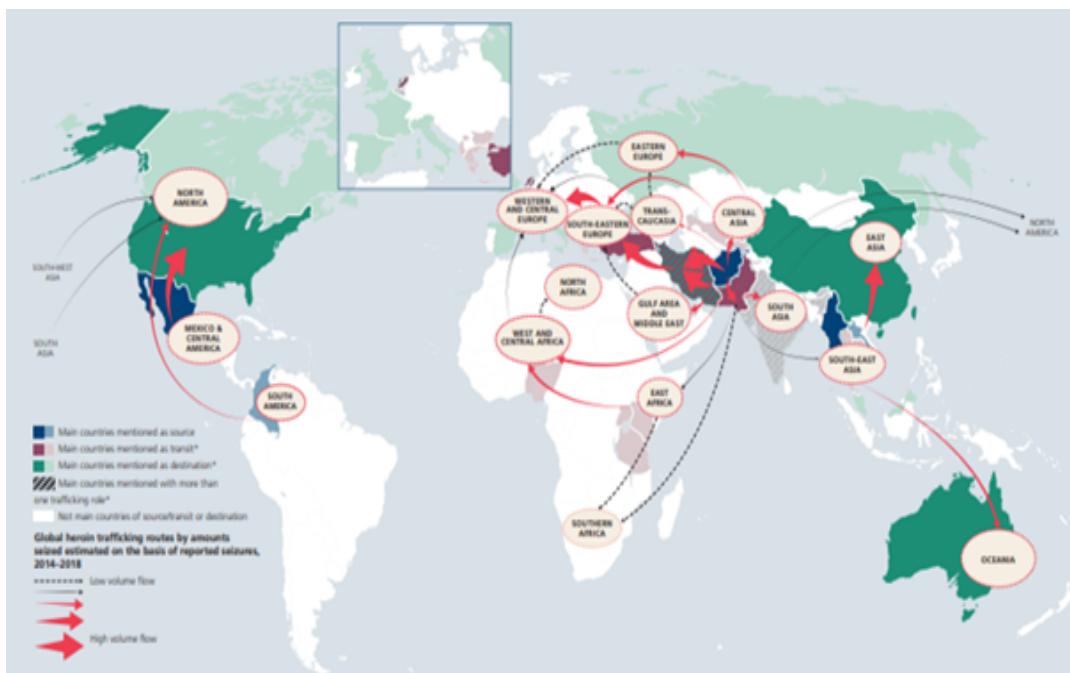
UNODC seizure data indicates that most of the cocaine available in European drug markets is smuggled to Europe by sea, primarily in maritime container shipments entering at major container ports such as Antwerp, Rotterdam, Hamburg and Valencia. UNODC notes in the [2020 report](#) that reduction in air traffic to Europe resulting from the COVID-19 measures would likely lead to an increase in direct cocaine shipments by sea from South America to Europe. Cocaine is primarily transported to North America via Mexico.



*Cocaine trafficking routes 2014-2018. Source UNODC 2020 World Drug Report*

## Maritime transport routes of heroin and morphine

According to UNODC, the overall largest quantities of heroin and morphine seized in Western and Central Europe in 2018 were reported by Belgium, followed by France, Italy, the United Kingdom and the Netherlands. Although smuggling routes for heroin and morphine to Central Europe are along the Balkans by land, trafficking to Belgium in 2018 to a large extent took the form of maritime shipments departing from the Islamic Republic of Iran or Turkey. Similarly, trafficking to Italy was characterized by maritime shipments in 2018 with the bulk of seizures in 2018 having departed from the Islamic Republic of Iran in containers. This was followed by shipments by air, often departing from the Middle East (Qatar) or Africa (South Africa), while heroin shipments destined for France typically transited the Netherlands and Belgium. UNODC advises that during the pandemic and as a result of a massive reduction in air travel and tightening of borders within the EU, transportation of by ship likely increased.



*Heroin trafficking routes 2014-2018. Source UNODC 2020 World Drug Report*

## **Concealment of drugs on commercial ships**

Packages of narcotics can be concealed within cargo inside of a container or within the structure of the container itself, hidden in the walls or below the floor. Reefer containers provide opportunities for hiding packages in the refrigeration units. Packages may be placed by rogue employees working for shipping companies or terminals and there have been reports of drug traffickers disguised as port officials and stevedores marking containers as checked with replicated official seals. Once a container is sealed and delivered for loading, the crew has no opportunity to inspect the interior.

Drug traffickers also conceal packages within bulk cargoes. In 2019, Malaysian authorities seized twelve tons of cocaine concealed in a bulk shipment of coal. One of Gard's Members unwittingly loaded bulk sugar that contained packets of cocaine that were found when they became entangled within the shore hopper at discharge.

Smugglers also use the ship's external structure by attaching a box to the hull or drugs can be concealed by a diver in the rudder trunk in water-tight bags. Void spaces within the ship can also be exploited as hiding places. There is no end to the ingenuity of the smuggler. We have even seen drugs hidden within the core of pineapples.

## **Hot spots and preventive measures**

In Gard's recent experience, high risk areas for cocaine smuggling include Colombia, Ecuador, Peru, Mexico, Brazil (particularly the port of Santos) and Venezuela. Our experience is in line with the reported seizures in the UNODC 2020 report which also advised that drug smuggling activity from Venezuela has diminished, likely due to sanctions, and [the activity in Brazil](#) has increased. Turkey, Algeria, Egypt and Lebanon are hot spots for heroin and captagon, an increasingly trafficked stimulant.

Under the ISPS Code, it is the responsibility of port authorities, shipping companies and seafarers to ensure safety and security at port. This includes preventing unauthorised personnel from accessing port facilities or boarding vessels, implementing proper security plans, and ensuring all personnel are trained, aware and know how to detect and mitigate potential security threats. However, we advise vessel operators and their masters to exercise particular caution when calling at ports susceptible to drug smuggling, and to:

- Obtain a port update from the vessel's local agent and carry out a voyage specific threat and risk assessment prior to calling the port.
- Review the Vessel's Security Plan, adopt relevant preventive measures, and brief the crew accordingly. It is important that the master and crew take all possible precautions to limit access to the vessel and monitor the surrounding area adjacent to the vessel while in port, such as:
  - Enforcing single entry points onto the vessel and limit access to the vessel to essential personnel only.
  - Making sure all external persons record their appropriate details and paperwork before boarding and informing the Master or Chief Officer if there is doubt about an individual's legitimate reasons to be onboard.
  - Registering all packages before allowing them to be brought on board.
  - Placing a permanent watchman in areas where stevedores or repair technicians are working onboard the ship.
  - Observing the vessel's CCTV system and storing the feed for review.
  - Using the vessel's lights to illuminate all accessible areas onboard and the surrounding waters.
  - Maintaining a proper lookout for any suspicious activity observed close to the vessel, for example, small boats or divers.
- In the event crew members are allowed to go ashore, advise them to refuse to carry aboard any package requested of them by "newly made friends".
- Once cargo operations are completed, perform a full search of the vessel. If there are any suspicions that drugs may have been placed onboard, request a comprehensive vessel inspection, including inspection of the vessel's hull below the waterline, before departure.
- Contact one of Gard's local correspondents for appointment of guards, sniffer dogs, and underwater hull inspections. Making the appointment through the correspondent ensures that the contracting companies are approved and certified for this type of service.
- Report any attempt, or suspected attempt, of drug smuggling to the local authorities, vessel agent, and P&I correspondent. If drugs are actually found onboard, do not touch the drugs. Take a photo or video of the area of the vessel where the drugs were found and seal it off to prevent any unauthorised access.

Operators and masters of vessels trading to and from high-risk areas are also recommended to familiarize themselves with, and ensure their onboard procedures refer to, the IMO Revised "*IMO Revised Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships Engaged in International Maritime Traffic*" ([Resolution MSC.228\(82\)](#) and [Resolution FAL.9\(34\)](#) ).

## What happens if drugs are found on board?

In Gard's experience, there are only a small number of cases where drugs are discovered on board or attached to a vessel. The consequences can, however, be very severe for both the owners and the crew. The investigations by the authorities will take time. The vessel will almost certainly be delayed. The crew will be questioned closely and may be detained ashore, before being released – provided the authorities are satisfied none of them was involved in the attempt to smuggle drugs. If suspected of complicity, crew members may be detained ashore in prison and may in due course be charged with such an offence. Depending on the jurisdiction and the facts of the case, a substantial fine may be imposed and/or the vessel may be threatened with confiscation.

Members and clients are recommended to co-operate fully with any authority carrying out such an investigation irrespective of the jurisdiction and regardless of it being demanding and time-consuming for those involved. Gard will normally assist by facilitating the appointment of correspondents, lawyers and, if deemed necessary, experts.

The vessel's commercial operations will be delayed and disrupted during the investigation. The vessel may be (partly) laden and will almost certainly be operating under either a contract of carriage or contract of affreightment, pursuant to which the shipowner has contractual obligations. The end result is likely to be that the vessel's voyage is delayed, sometimes for a long time. Cargo may have to be discharged and stored ashore. Cargo interests will be anxious about their cargo, especially if it is perishable. Even if the vessel is released without charge, it is probable that the owner will be exposed to extra costs and claims for possible breach of contract.

## The P&I cover

P&I cover ceases in the event "*the Ship, with the consent or knowledge of the Member, is being used for the furtherance of illegal purposes*" (Gard Rule 25.2.j). The phrase 'consented to' means that the Member has approved the use of the ship for illegal purposes, whilst 'knowledge of' means that the Member is aware, or should reasonably have been aware, that the ship is used for illegal purposes and does not take immediate action to remedy the situation. Therefore, cover will cease if the Member, although aware of the fact that the crew is using the ship for drug smuggling purposes, fails to take any action to prevent them from doing so. [See Gard's Guidance to Rule 25](#) .

In the absence of such consent or knowledge, the P&I insurance as such will remain intact concerning liabilities, losses, costs and expenses other than fines and penalties for the smuggling itself, which arise as a consequence of the detection of drugs in or on the ship. An example would be a cargo claim arising from delay of the vessel during an investigation and deterioration of a perishable cargo.

As of 20 February 2021, all clubs in the International Group of P&I Clubs revised their Fines Rule. Gard's Rule 47 now provides in pertinent part:

- 1) The Association shall cover fines or other penalties imposed upon a Member (or, imposed upon a third party whom the Member is legally obliged to reimburse or whom the Member reimburses with the Agreement of the Association) in respect of the Ship by any court, tribunal or other authority of competent jurisdiction for or in respect of any of the following:*
  - a) short- or over-delivery of cargo, or failure to comply with regulations concerning the declaration of goods, or documentation of cargo, provided that the Member is insured by the Association for cargo liability under Rule 34 (other than fines or penalties arising from smuggling of goods or cargo or any attempt thereat);*
- 2) The Association may, in its sole discretion, cover in whole or in part a fine or penalty other than those listed in Rule 47.1 above imposed upon the Member (or imposed upon a third party whom the Member is legally obliged to reimburse), provided the Member has satisfied the Association that he took such steps as appear to the Association to be reasonable to avoid the event giving rise to the fine or penalty.*

Cover for a fine arising out of 'smuggling of goods' is therefore unavailable as a matter of right. Illegal drugs are considered to be 'goods' in this context. The P&I cover does, however, allow for applications to the Gard Board of Directors for discretionary cover in section 2 of Rule 47, the text of which remains unchanged. It is a requirement to the consideration of discretionary cover that the Member demonstrate that he took such steps as appear to the Association to be reasonable to avoid the placement of drugs aboard the vessel.

This discretionary approach may be seen as more consistent with the principles of mutuality than is cover as of right. Discretion is more likely to be exercised in favour of shipowners who can demonstrate the exercise of diligence in adopting anti-drug smuggling measures. This would include whether precautions have been taken which are appropriate to the level of risk at the particular ports at which the vessel is calling, and whether guidance available from governmental and intergovernmental agencies and from industry organisations had been followed; see for example IMO Revised Guidelines For The Prevention And Suppression Of The Smuggling Of Drugs ([IMO Resolution MSC.228\(82\)](#)) and ICS Guidance on [Drug Trafficking and Drug Abuse on Board Ship](#) .

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