



ESACD

Eastern & Southern Africa
Commission on Drugs

The Eastern & Southern Africa Commission on Drugs

Mauritius, 10–11 August 2023

A sea change in drug policy

Many countries in Eastern and Southern Africa are increasingly becoming pivotal transit hubs and destination points in the illicit drug trade, due in part to their strategic locations along main shipping routes through the Indian Ocean. This has led to the rise of organized criminal groups in these regions, exacerbating violence and corruption while undermining security and stability. Yet many countries in the region lack comprehensive and evidence-based drug policies with which to counter the problem productively, often with punitive measures prioritized over harm reduction and rehabilitation. To address these issues effectively, a shift towards more comprehensive policies is imperative, focusing on the root causes and consequences of drug use while providing rehabilitation and treatment options for people who use drugs (PWUD). This paper reports on the substantive points discussed at the latest conference of the Eastern and Southern Africa Commission on Drugs (ESACD), which was convened to formulate strategic ways to address these challenges and others.



On 10 and 11 August 2023, the ESACD held a meeting in Mauritius as the second in a series of consultations on drug policy and drug markets in the region. The meeting gathered representatives from civil society organizations, academia and the media alongside high-level officials, including the prime minister of Mauritius, Hon. Pravind Kumar Jugnauth; Manuela Riccio, chargé d'affaires of the European Union delegation to Mauritius; and the commissioners: the former president of South Africa, Kgalema Motlanthe, who chairs the ESACD; the former president of Mauritius, Cassam Uteem; the former president of Mozambique, Joaquim Chissano; the former president of the Seychelles, James Alix Michel; Willy Mutunga, former Chief Justice and President of the Supreme Court of Kenya; and Professor Quarraisha Abdool Karim, director of the Centre for the AIDS Programme of Research in South Africa (CAPRISA). The event was co-hosted by the EU, through the ENACT project, and the Global Initiative Against Transnational Organized Crime, which acts as the secretariat for the commission, providing administrative and diplomatic support.

The ESACD is a high-level commission linked to the Global Commission on Drug Policy championing drug policy reform and capacity building in Eastern and Southern Africa. It was formally launched in Cape Town in February 2023 with the mandate to enhance regional awareness around drug-related challenges, engender public discussions and engage with policymakers and other stakeholders with a view to catalyzing new approaches and reforms. Where the inaugural high-level meeting was wide-ranging (with a focus on public health risks, improving access to medicines, the impact of drug

policies on young people and the role of civil society organizations in developing evidence-based policy), the Mauritius meeting centred on drug policy reform, improved law enforcement strategies for disrupting illicit markets and the expansion of maritime trafficking routes.

The resulting discussion was grounded in the identification and illumination of three fundamental notions that encapsulate the realities of the drug trade in the region. These principles should be used to guide a suitable response:

- There is still too much that we do not know about the drug markets of Eastern and Southern Africa.
- There is a body of drug policy advice and guidance frameworks available, but the approaches taken in the region do not seem to be working properly.
- There is a need to consider new priorities and innovative approaches when it comes to improving our response to drugs and drug markets in the region.

The following sections provide a summary of the key points raised during the August meeting.

ADDRESS KNOWLEDGE GAPS

There has been a sharp rise in countries in Eastern and Southern Africa becoming transit hubs and destination points in the illicit drug market, extending as far as the EU and the US; many have also seen a significant escalation in domestic drug use, partly as a consequence of the increase in and diversification of drug supply chains, with new markets opening up and new geographies and communities targeted. There is consensus that the existing regional drug policies are not effective enough, and that drug markets are in fact expanding and conversing with other markets despite efforts to disrupt them. What has become an intractable problem has not, however, been met with an adequate and appropriate response, and current policies to combat the illicit drug trade are instead characterized by insufficiency.

These limitations are partly a product of some fundamental knowledge gaps that exist around drug markets in the region, including an absence of surveillance and monitoring data, and government underreporting. Indeed, many of the countries in the region have little or no data with which to understand their drug markets, with some unable to provide even basic information, such as the number of PWUD present and the types of substances consumed in a particular state. There is a huge gap in the evidence base, which is an essential starting point from which to tackle the problem meaningfully. More and better data is therefore needed to improve regional understanding of the issue of illegal drug distribution and use and for law enforcement to get a step ahead of these internationally networked and highly adaptable structures.

Furthermore, where a strong evidence base does appear to exist, there has been a reluctance in some cases to give due consideration to the relevance of such data. Local knowledge and first-hand observations by community-based civil society organizations, particularly those that work with PWUD, are often made to yield to international expert assumptions about what is really happening in the region, in spite of evidence to the contrary. Consequently, the regional attitude to drug markets is characterized by significant oversights, and problems that have yet to be acknowledged in the policy approach. These shortcomings are especially apparent in our incomplete grasp of trafficking intricacies, including the complexities of global supply chains and the influence of technological advancements. Moreover, they extend to issues concerning law enforcement's approach to combating the illicit drug trade, which often fixates on low-level offenders, pays insufficient attention to harm reduction and grapples with problems related to corruption and collusion.

TACKLE EXPANSION AND DIVERSIFICATION

Such blind spots are notably evident in deficiencies in our understanding of maritime drug trafficking trends, which particularly affect the coastal and island states of Eastern and Southern Africa but with consequences also for the interior. While the dynamics of drug markets are shaped by a range of political and socio-economic factors, these states are vulnerable as a result of their proximity to major transnational drug trafficking routes that link illicit drug production points with regional and global marketplaces. This is exacerbated by social and economic challenges that are endemic to their emerging market economies and constituent institutions.

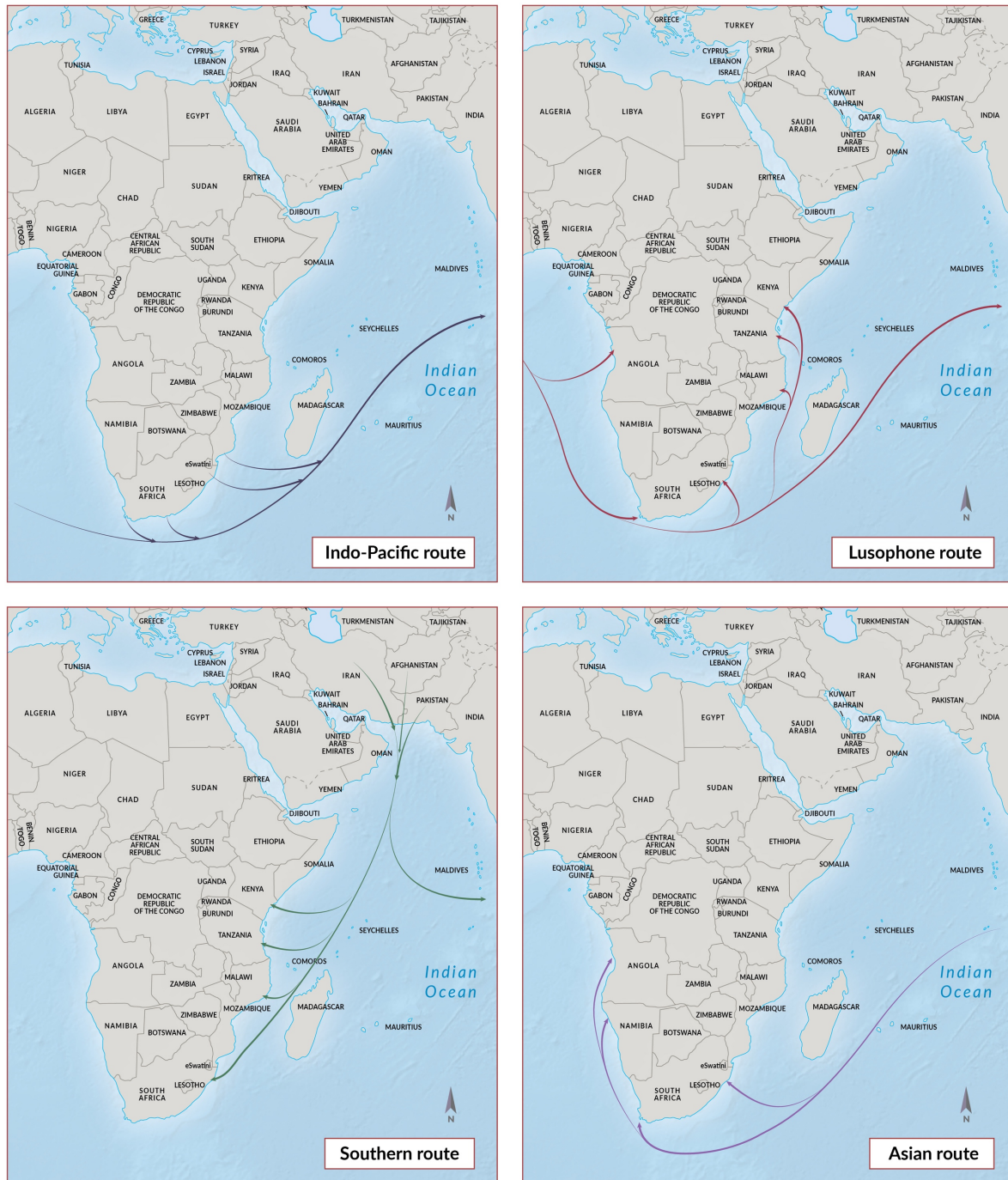


Figure 1 Primary transnational maritime drug flows in Eastern and Southern Africa.

Some 750 million containers are shipped around the world annually, with less than 2% undergoing inspection. Africa's busiest ports already face the mammoth task of having to accommodate over 7 000 containers per day, with limited capacity for oversight. And with plans in place to scale up these volumes further still, the threat of illicit drugs reaching the region by sea is set to increase. Drug traffickers have seized opportunities within this vast and expanding containerized infrastructure, exploiting vulnerabilities in port facilities and interdiction agencies, and leveraging the kinds of systemic failures that foster corruption.

Testament to this is the overall increase in narcotic seizures in the region and the Indian Ocean over the last five years, with the notable prevalence of cocaine, heroin, methamphetamine, cannabis and synthetic drugs often disguised within legal shipments flowing through the region along four main routes (see the route maps). Of these substances, heroin originating in Afghanistan and trafficked along the southern route is the region's most prominent drug economy. While the southern route has long been used for transporting Afghan heroin, shipments since 2019 have regularly been accompanied by methamphetamine, also originating in Afghanistan. This regional development was not taken seriously as a major threat when evidence of it first emerged in October 2019, and what should have been recognized as a significant development in the supply of regional drug markets was denied by many experts.



External experts also continue to underestimate the prominence of cocaine flows that cross the Atlantic to feed the consumption markets of Eastern and Southern Africa, and transit the region to more distant destinations, including China, Australia and the EU. Significantly, a recent major international assessment of cocaine flows from Latin America to the EU via the African continent omitted the Eastern and Southern Africa region as a factor in its analysis. The fact that the region is also a major exporter of illicit drugs through its air and sea ports, particularly along the Indo-Pacific route, is also often overlooked by external analysts.

Although we have some awareness of the major routes and various methods used to transport drugs by sea to and through Eastern and Southern Africa, there is still much that we do not know – or refuse to acknowledge, as the case of Afghan methamphetamine and cocaine flows would indicate.

Police officers impounded 2 tonnes of cannabis resin at a factory yard in the Port of Dar es Salaam, Tanzania. The cannabis, suspected to have come from Zambia in transit to Canada, was found hidden inside hollow tree trunks in a container of timber.

© Reuters/Emmanuel Kwitema

There is also still the overwhelming sense that this market is being underestimated. Part of this is because of the heavy reliance on seizures data, which is an unreliable measure of actual illicit flows. Data for 2022 shows that narcotic seizures by the combined maritime forces and naval units are concentrated in the northern region of the Indian Ocean, while those in the southern Indian Ocean are likely to be significantly underestimated. Not only has there been a rise in the quantity of drugs transported to and distributed throughout the region, as indicated by seizures data, but recent years have also seen a diversification of shipping routes as drug traffickers are moving further south into the Mozambican channel.

Maritime drug trafficking is subject to particular law enforcement challenges, including the sheer volume of marine traffic. Traffickers are continually devising new methods to side-step disruption measures. This imminent adaptability points to some of the challenges involved in disrupting maritime trafficking flows. Effective policies must address the increase in maritime trafficking levels and the diversification of sea routes, while also working within the problems of maritime territory and jurisdiction at sea, as well as deficiencies in national coastguard entities. Enhanced information sharing and regional cooperation are vital for a more forward-looking and target-orientated response.

SECURING LAW ENFORCEMENT SUCCESSES

The inadequacies in understanding and addressing drug challenges are evident across various sectors, with the scourge of maritime trafficking representing just one facet of the law enforcement problem. The persistent growth and diversification of regional drug markets underscore shortcomings in law enforcement responses on multiple fronts. These responses need to be improved in order to work as effective deterrents, and to avoid not only the proliferation of illicit drugs but also the increased expansion of organized crime's influence into many different aspects of regional social and economic activity.

The main strategies currently used by law enforcement to disrupt illicit drug markets primarily involve restricting the supply or distribution of drugs, making arrests and convictions, and combating money laundering and the flow of illicit funds. While measuring the impact of these disruptive activities on drug markets is challenging, the proliferation of illicit markets in the region suggests that existing law enforcement initiatives are not achieving significant or lasting results. Despite robust prohibition regimes and increasingly stringent measures, drug production, trade and use have all surged in the region, and with this expansion comes greater cross-fertilization with other criminal markets. Moreover, disruption efforts can also indirectly fuel institutional corruption, as criminal organizations attempt to bribe their way out of law enforcement interventions. The burden of disruptions is also often unfairly carried by PWUD, with the additional costs for suppliers simply passed on to PWUD. Thus, it is not just that disruption initiatives are not successful in the region, but it is also that sometimes they are even more harmful, coming as they often do from the perspective of securitized and punitive government policies.

To address these challenges, regional drug control responses should be refocused on targeting national and regional structural vulnerabilities that facilitate the proliferation of criminal networks. This approach should include the development of a more coherent policy framework for law enforcement activities related to illicit drug markets, alongside measures to mitigate the adverse impacts that current disruption strategies have on public health and safety, communities and economic development. Fostering greater coordination among national authorities, as well as regional and international partnerships, is essential in tackling illicit drug markets.

RETHINKING THE 'AFRICAN POSITION'

The development of effective drug policies in the region has long been hampered by conflicting views. Historically, there has been a push for prohibitionism, which has been the foundation of what has become the so-called 'African position' on drug policy. However, there is a growing recognition of the unique challenges facing different countries, and global perspectives regarding the most effective tools for curtailing the illicit drug trade have evolved. Yet the region largely continues to rely on drug policy advice and guidance frameworks derived primarily from the three international

drug control conventions (1961, 1971 and 1988), which do not seem to be working properly and have been strongly criticized by many in academia and civil society. Governments thus often perpetuate less productive policies in the absence of more effective measures. There is widespread acknowledgement that the current law enforcement and policy responses to countering the illicit drug trade in the region fall short of their intended goals and warrant a comprehensive review to take into account these changing dynamics.



Recognition of the general failure of the prevailing ‘war on drugs’ approach is key to mounting an effective response to the region’s evolving drug problem, with fresh thinking needed on how to follow a more comprehensive approach to drug policy through the lens of harm reduction and rehabilitation. There is some political momentum suggesting an appetite for reform, as these views change. Some countries in the region have begun to varying degrees to tailor their approach to the drug trade to consider the health and rights of consumers, reflecting a growing awareness of the need for a more sophisticated and holistic perspective. This trend is noteworthy, as Africa has traditionally been perceived as a bastion of conservative, prohibition-orientated drug policies. Notably, there is increasing recognition that criminalizing the possession of small quantities of drugs lacks a deterrent effect, and that enforcement responses should instead concentrate on the intersection between drug markets and organized crime.

Lessons learned from other countries’ experiences of ushering in drug policy reform outside Eastern and Southern Africa can be instructive. For example, in Europe, decriminalizing possession of certain drugs has shown to reduce overdose deaths and slow HIV rates. In parts of the US where similar policies have been enacted, drug arrests have fallen, reducing prison numbers and criminal records. However, in such cases the common policy mix has been to ensure that adequate treatment services for PWUD have been made available as reform policies have been introduced, without which such policies can prove counter-effective, and even lethal.¹

¹ Decriminalising drugs: Lessons from Oregon, *The Economist*, 15–21 April 2023.

REFORMING CANNABIS LEGISLATION

The African consensus supporting universal prohibition has begun to be challenged, with several countries in Eastern and Southern Africa leading the way. The global trend towards more health-orientated drug policies, incipient within the region, has evolved primarily through policy positioning on cannabis. Historically, many countries in the region have maintained strict prohibitionist stances on cannabis, often influenced by international drug conventions. However, there has been a growing movement towards re-evaluating these policies. Several countries have started to explore alternative approaches, such as decriminalization or legalization for medical purposes. For example, six of 19 countries in the region have legalized the production, possession, use and/or trade in cannabis in some form. This move demonstrates a recognition of the need for more nuanced and pragmatic cannabis policies, aligned with evolving international perspectives and acknowledging the economic benefits that cannabis can offer the region.

However, these nascent developments in the region have been held back by bureaucratic hurdles. A positive outcome of the Mauritius meeting is therefore the decision to host a separate event focused specifically on cannabis legislation to be held in Maputo, Mozambique, in early 2024. This will enable representatives from countries in Eastern and Southern Africa to engage with others that have already amended their policies, or are in the process of doing so, and be encouraged to take further steps in the direction of reforming their approaches to the cannabis trade.

Within the region, Mauritius has seen something of a paradigm shift in its drug policy in recent years, with an emphasis on the treatment and rehabilitation of PWUD alongside a commitment to law enforcement responses. This two-pronged approach involves taking a tougher stance on dealers and producers while being compassionate to the victims of the trade, which means recognizing the human rights of PWUD and instituting pioneering harm reduction measures. Mauritius has also witnessed several developments in the area of drug-use monitoring with the aim of improving the body of data available on which to form constructive evidence-based policy. Other regional successes include six of 19 countries instituting drug policies that support harm reduction measures and 11 of 19 having drug policies that, on paper, ensure access to essential medications.

Although there have been localized achievements, such as with Mauritius, no country in the region has formally decriminalized drugs in any capacity. A successful regional strategy is essential to combat the escalating challenges posed by drug trafficking and consumption. This should be one that measures success not through seizures, arrests, convictions and imprisonments, but through improvements to human rights and the pursuance of public health obligations. Through high-level political engagement and ongoing dialogue with law enforcement and civil society, the ESACD is well-positioned to help lead drug policy reform in this regard.

CIVIL SOCIETY AS CHANGE AGENTS

We need to recognize that our securitized, prohibitionist pursuit of a drug-free society has achieved not this outcome, but a series of unintended negative consequences for public health and human rights. Populations of PWUD and the civil society organizations supporting them have become marginalized, disproportionately arrested and imprisoned, and unevenly affected by public health and human rights failures. Civil society organizations and PWUD groups are still largely being seen as objects of drug policy action rather than as active partners in the development of meaningful solutions. Indeed, only one country in the region has deemed civil society organizations and PWUD as essential drug policy partners.

A regional response to the region's illicit drug markets should leverage the unique resources of local civil society organizations, with their ability to not only identify policy shortcomings but also hold governments accountable. Indeed, civil society actors in the region, by carrying out targeted studies on PWUD, have demonstrated that they are able to face head-on the problem of underreporting of numbers of PWUD and drug market values by government departments. Despite the complexities involved in undertaking drug-related research in some countries in the region, where responses to the drug trade have tended to be conservative, there are also critical ongoing policy engagements taking place, with coalitions of civil society organizations spearheading efforts to introduce model harm reduction bills. Furthermore, law enforcement agencies are being encouraged to make use of programmes to withdraw first-time offenders from the criminal justice system, including through the provision of legal services.

Civil society organizations have been able to fill significant gaps in our knowledge of the needs of PWUD, with the capacity to act as intermediaries between the government entities tasked with developing policy responses and those most affected by those responses. Civil society organizations play a crucial role in drug policy arenas, acting as the initial point of contact for PWUD and possessing valuable insights into user behaviours and market dynamics. Their work in the region has shown that they are committed to providing comprehensive services to PWUD, including needle and syringe programmes, facilitating referrals to harm reduction services, providing counselling, engaging in community-outreach initiatives and advocating for policy changes.

The collaboration between civil society organizations, PWUD and government bodies can yield outcomes that are better suited to helping PWUD. The ESCAD's high-level engagement should therefore be accompanied by a community-orientated outlook that takes seriously the experiences of PWUD and the role civil society organizations can play.



TOWARDS A WORKING COMMISSION

There is consensus in reformist policy circles that the existing drug policies in Eastern and Southern Africa have proven to be ineffective in curbing the use of and trade in illicit drugs, and their related harms. In fact the region's drug markets are expanding in the face of these traditional policy efforts to disrupt them. However, the ESACD is uniquely situated to address these shortcomings and lead the way on drug policy reform in the region. The impact of the commission will not only depend on continuing engagement with political leaders, however. Proposed advisory groups should be granted powers and access to decision-makers at a national and regional level; and law enforcement officers and the criminal justice system must adopt a paradigmatic shift to refocus drug enforcement responses.

While what emerged from the inaugural meeting in Cape Town in February 2023 was a multisectoral consensus on rising drug use and increasing demand and supply chains, over the course of the Mauritius meeting, the ESACD cemented its role as a working commission. Although the commission was conceived of to advocate for change, advocacy alone is not enough: the commission is eager to pursue that change through direct involvement and an emphasis on reform-minded activities. The actionable resolutions of the August conference in Mauritius, including convening a meeting on approaches to cannabis policy reform in early 2024 (mentioned earlier in this report), have given further impetus to the ESCAD's commitment to combat the serious and multifaceted problem of the region's illicit drug trade.

Knowing and saying is strengthened by doing, and going forward, the commission should continue to engage politically at a high level of office to drive reform (through regional governments, and even beyond the region, to the African Union), following the constructive example set by Mauritius. However, a successful strategy for drug reform development should also enlist law enforcement and reform process allies, including cooperation with regional economic communities such as the Southern African Development Community (SADC), the East African Community (EAC) and the Intergovernmental Authority on Development (IGAD), and the participation of a broad range of stakeholders, including healthcare providers, civil society organizations and, most importantly, PWUD.

The next meeting of the commission, scheduled to take place in Zanzibar in 2024, should begin to address some of the fundamental realities of the illicit drug trade in the region by seeking solutions for overcoming knowledge gaps, working to reform drug policy and helping to curate new approaches. In doing so, Eastern and Southern Africa may come to be regarded not as a region of growing drug consumption and trade markets, but a point from which localized successes and reforms radiate outwards to the rest of the African continent. To help achieve this, the commissioners have committed to a sea change for the region, which will involve confronting political inertia and supporting harm reduction approaches to produce tangible and lasting results.

The commission should advocate for this change by engaging with key regional stakeholders, pushing boundaries and driving reform, along the lines of the following recommendations:

- Encourage a recentring of regional drug policy around health and human rights principles.
- Refocus national drug law enforcement responses to trafficking and organized crime.
- End the criminalization and incarceration of PWUD, and the stigma that accompanies it.
- Consider alternative approaches to domestic drug market control.
- Involve civil society, and PWUD in particular, as essential partners in the development, implementation, monitoring and evaluation of national drug policies across the region.

In this sense, the ESACD aims to be the torch-bearer of more successful and human-centred drug policy, taking reform forward across the region and beyond through targeted and meaningful engagement with policymakers and other stakeholders.



**GLOBAL
COMMISSION ON
DRUG POLICY**



**GLOBAL
INITIATIVE**
AGAINST TRANSNATIONAL
ORGANIZED CRIME

The Eastern & Southern Africa Commission on Drugs

Global Initiative Against Transnational Organized Crime

secretariat@esacd.org

ESACD
Eastern & Southern Africa
Commission on Drugs 