

Focus on the International Drug Policy Event

(Transcription)

Assistant Secretary of State for International Narcotics and Law

Enforcement Affairs Bill Brownfield's speech at CSIS

<https://www.youtube.com/watch?v=gtOLegzeEoQ>

Ladies and gentlemen as Dr. Morrison kind of suggested if some of you have been asleep for the last 15 or 16 months you may have missed this, but there is a fairly significant debate, a national debate, a global debate that is going on right now in terms of drug policy and how to deal with the matter of dangerous drugs in our future. Here in the United States of America two states have voted in referendum to legalize one of those drugs “Cannabis” and 18 more states plus the district of Columbia permits some degree of medical use of marijuana, with no doubt you are hoping to hear my opinion on this... you will not, because I do not have any greater right to an opinion on our domestic drug policy than does anyone else in this room and you will articulate your views; I am quite confident in a few minutes as we begin some dialogue with you. I am however, that person that you the American tax payers pay to manage our international engagement and participation in this issue and that field I will address in a few brief minutes of comment this morning.

Ladies and gentlemen there are 3 international drug conventions that guide the international community in this matter; the 1961 single convention, the 1971 expanded

convention, and the 1988 convention against drug trafficking. The United States of America is a party to each of these conventions and has unusually in the last 25 years ratified each of these 3 United Nations Conventions, may I tell you as a Law School graduate, although not a lawyer, these are actually quite well drafted conventions, they are very precise, they are very typed, the lawyers in the room who agreed on the text did a fine lawyerly job in drafting these conventions. They have a precise number identified of drugs on their prescribed annexes and I might note that marijuana appears in the annex of the most tightly restricted of the drugs. Their authorization for medical use of drugs and particularly marijuana is very tightly prescribed and controlled in the conventions and the conventions explicitly and expressly hold national governments responsible for the conduct, if you will, of the entire nation including prevention state, municipal, and local governments that form part of the larger nation.

The conventions create two international oversight bodies; the policy making body as Dr. Morrison just mentioned is the Commission on narcotic Drugs of the CND and the organization that is designated as that responsible for ensuring compliance and adjudicating interpretations of the conventions is the International narcotics Control Board or INCB. The INCB let me start my story, has been taking a position on the United States of America and its position on marijuana for several years they have expressed views for more than 3 years on those states which now permit medical use of marijuana and beginning last year began to express views on two states: Washington State and Colorado which through referenda, legalized the use of marijuana for recreational purposes.

In October of last year I had the pleasure of joining a small U.S. delegation which went to Vienna to articulate the U.S. governments case as to why, in our judgment, we were compliance with our international treaty obligations, even in light of the decisions by Washington State and Colorado to, legalize the cultivation, production, sale, possession, and consumption of marijuana.

Our argument went something like this: “The purpose of the conventions is to accomplish the objective of controlling, discouraging, reducing the use of potentially dangerous drugs, the conventions we argue allowed a substantial amount of discretion to the individual governments on how they would accomplish those objectives. The conventions specifically offered by way of exception those countries whose constitutions require a different approach to the objections to allow them to continue with their constitutions and not have to change their constitutions in order to comply with the conventions and our argument went it was the right of United States government to determine how best to use its limited and in some cases scarce law enforcement and criminal justice resources to best accomplish the objectives of the conventions and therefore we said we were in compliance with the convention.

About a month ago the INCB in its annual report for 2013 begged to differ, reached a different conclusion and while they were not definitive in their judgment because technically they were judging the year 2013 prior to the moment when the Colorado and Washington State rules went into affect they nevertheless assessed that the argument by

the United State government was not sound. That said I have read article two of the United States constitution, I am aware of who I report to and may I go a step further I am actually quite comfortable with out argument, I actually think we are correct and we will continue to articulate this position.

About 4 weeks ago, slightly less I believe, the Commission on Narcotic Drugs held its annual meeting or conference the CND I had the pleasure of being the co-head of the U.S. delegation to that meeting as well. While we had many engagements a great deal of discussions, at least 3 public presentations, I would argue that we were trying to develop international consensus on some basic points that could guide the United Nations and the International community as it wrestles with the issue of adjustments and changes to drug strategy, drug policy, and drug conventions, in the years ahead.

I laid out four basic pillars in my conversation, pillar number 1: defend the integrity of the conventions, the three conventions. Why? First they have been around for about 50 years and speaking as a dinosaur who has been in this business for 35 years; while it is possible to correct and old document (interruption) it is a lot easier to adjust it then to completely create a new one, I would draw your attention to the fact that our governing document here in the United States of America is about 225 years old and we have somehow found a way to move from 1787 to 2014 without having to trash the original and create a new one, so pillar number 1 “integrity of the conventions”. Pillar number 2, “flexible interpretation”, if it s a living document and they are living documents, living means you are allowed to adjust your interpretation as the world changes around you, the

world in 1961 was a different place from the world in 2014 and we the governments and members states of the UN system should be permitted to interpret with that degree of flexibility as we move in to the 21st century. Third pillar or principle, “tolerating different national strategies or policies”, there 194, I believe, countries represented in the United Nations today each one has its own approach, its realities, its strategies and policies to deal with drugs and the consequences of those drugs, some degree of national differentiation in policy has to be accepted and even permitted, and the fourth pillar was in sense the argument that whatever your position may be on legalization all 194 governments should agree that those transnational criminal organizations who traffic in the substance for the purpose of making money, corrupting organizations, laundering proceeds through an illicit manner through financial systems of other governments, should be resisted combated, and ideally eliminated, integrity of the conventions, flexibility of interpretations, toleration of different national policies, and combating the organized crime.

May I suggest to you that my experience in Vienna four weeks ago suggest that there is good hope for consensus built around those 4 pillars allowing among the 194 different governments those that fell strongly that the policy should be very strict and prohibitionist and those in the other side who argue with equal strength that in fact we should substantially lessen the criminal penalties and restrictions on drug use and drug consumption, that I saw prospects for being able to get all of those countries to unite under those four basic pillars. That is my international presentation ladies and gentleman.

Now one of you no doubt is saying to himself, now what would be the best policy for the United States of America to pursue that would give me the strongest chance for actually building or holding some degree of international consensus on these matters? Thank you for asking that question, and I will in fact provide you an answer and through that back door get to the question of "...so what about Washington state and Colorado?" Ladies and gentlemen here domestically there are two issues at play, call them issues, call the principles, call the areas of disagreement, I don't care what we call them there are two things out there, to use the technical terms and what you are about to hear reflects to a very considerable extent words you have heard from the president of the United States and the attorney general of the United States which puts me in my opinion in pretty good company.

Principal number one: marijuana is a harmful substance, it is toxic, it is addictive, or if you prefer to argue about addiction lets say it produces dependency, but it does have if used in sufficient quantities and sufficient regularity the impact of requiring the same human to use the same substance. We want we society, the community, the nation, the planet, want a policy that not only does not encourage but discourages its use, if we can discourage the use and consumption of alcohol, nicotine, caffeine, fatty foods and sugary drinks, surely we can have the same degree of societal interest in discouraging the use of cannabis and marijuana.

Second principle it is not in our nation's interest or quite frankly I assume any nations interest to populate its prisons and to over burden its criminal justice system with large

numbers of people for the simple offense of possession or consumption of marijuana. It is not just a criminal justice problem it is also a public health problem and if we can somehow develop consensus in this nation and perhaps in the larger world that brings these two principles to bear, principle number one; cannabis is harmful, we want policies, rules, laws, processes, and procedures, that discourage its use and principle number two; we do not wish to fill our prisons with people whose sole offense is that of consuming this stuff.

Ladies and gentlemen as your paid and not particularly well paid representative who tries to articulate the U.S. position in the international community in drug policy may I suggest to you that, that approach those two principles give me something I can work with in the international field. Please, don't ask me to negotiate and find consensus among 194 governments on the planet for new conventions, I will tell you in advance I am not smart enough, I am not passionate enough, I am not patient enough to deliver that sort of consensus. I seriously doubt I can even deliver you 67 members of the United States Senate to ratify any new convention, you may have a different position and a different picture than I do in terms of how swiftly and with lightning like solidity the treaties of today are moving through today in the U.S. congress my own view is that I myself cannot offer you a great deal of optimism on that front. We are in a time of opportunity and transition, transition produces change and change can be good, but it is good ladies and gentlemen only if we do it right and I look forward to working with you and hearing from you on just how we can do it right. Thank you very much Dr. M back to you.

Ambassador Brownfield's comments on international conventions

Okay, 2016 – we are referring ladies and gentlemen to the Special Session of the UN General Assembly, which has been approved or, a resolution for which was passed last year to do a special session of the General Assembly on the drug issue and drug policy. Where are we right now? First, I think we actually are in a broader debate and a broader discussion on this issue than we have ever been in the history of this planet. Second, we are still wrestling with where the preparations for this event will be centered. Will they be centered in Vienna, the location of the United Nations specifically designated Drug Control Drug Management agencies? Will they be centered in New York? That's basically the choice, and the thought for New York is that that is where your political leadership is located within the United Nations. My guess is we will eventually, and as usual, split the difference in some way. Some preparations will occur in Vienna, they will then be passed to New York for the political touch up, in terms of what will happen.

What will come out of this process? I have laid out for you what I hope will be the overarching umbrella within which we then have this debate. Respect the integrity of the three conventions, permit flexibility of interpretation, acknowledge and recognize that there will be different models and policies pursued by different governments, and finally agree that the actual transnational criminal organizations must still be proscribed by whatever means that the states and the international community can bring to bear. Now within that, there is plenty of room for debate, and I believe we are hearing much of that debate right here and right now. I welcome it. I am your international operator for those

of you who are citizens of the United States of America. I won't tell you what to decide, I will ask you, please decide something that I actually can deliver in the international community. Thank you.