

EXECUTIVE SUMMARY

Informal Drug Policy Dialogue
Maldonado (Uruguay), April 2-3, 2013

The ninth Latin America informal drug policy dialogue was structured in seven sessions devoted to “dilemmas in regulation of the cannabis market.” The participants first discussed and examined **the Uruguayan proposal for cannabis regulation**, which is basically designed counter drug trafficking and implement an effective health policy regarding cannabis use. Cannabis is the starting point because it is the most-used substance, and there is a desire to attack the economic base of deregulated cannabis and associated violence. One country alone cannot currently attempt to legalize and regulate all drugs. The Uruguayan scheme proposes a state monopoly on regulation with the goal of “decommercializing marihuana.” The government will purchase all production and then distribute it through authorized pharmacies. Because of the international legal status of cannabis, a registration system is necessary to avoid international conflicts and trafficking. The registry would also ensure transparency for users and growers, so they do not risk being identified as drug traffickers. Because prohibition has failed as a model for regulation of drugs in key areas such as health, security and limiting supply, the regulation of cannabis would benefit society as a whole, not just the sectors connected with cannabis use. But it is important to be particularly careful with the prejudices of people who tend to interpret a change in the laws as support for drug use. The idea is not to encourage use, but to control and regulate it, while promoting destigmatization of cannabis users.

Second, the group examined **models of regulation in other parts of the world**, the U.S. states of Colorado and Washington, the Netherlands and Spain, focusing on issues such as the risks of diversion to the black market and the benefits of the model implemented in those countries. In the case of the **United States**, it was important that there was prior experience in the country with medicinal uses of cannabis. The campaign also emphasized the benefit of taxes from the sale of marihuana and the fact that its regulation would be similar to that of alcohol. Comparison with a substance familiar to the public, such as alcohol, was positive. (In Uruguay, the comparison could be established with existing regulation of tobacco.) In the Netherlands, a distinction was made between hard and soft drugs. The *coffee shop* model separated cannabis (a soft drug) from other drugs. The model’s success led to a series of guidelines, such as not selling to minors, distance from schools, and not engaging in advertising that encourages use, which contributed to public acceptance. Although the model is flawed, in that it does not solve the coffeeshops’ provision of cannabis, known as the ‘back door’ problem, it has had positive impacts, such as a better relationship with police and freeing up resources formerly spent on prosecuting non-violent users, and which can now be used to address other crimes. The cannabis social club model in **Spain** was promoted by civil society, exploiting the contradiction that permits use, but prohibits cultivation for personal use. The mandatory registration system used by clubs has advantages (making control easier) and disadvantages (stigmatization), but it is a model that runs counter to the hegemonic

tendencies of capitalist markets, avoiding the rise of a Phillip Morris of cannabis. The clubs have also taken advantage of the Spanish judiciary's traditional political independence from the government in power, society's growing tolerance of cannabis use, and the margin for discretionary action allowed under international treaties. The problem with the clubs is that although they are decriminalized, they are not regulated, which makes it difficult to control the appearance of new clubs.

Third, the participants addressed the issue of **models for cannabis regulation**: a state monopoly or a self-regulated market, with a broad range of options in between. What is important is that the models balance the various factors at play: public health (harm reduction) vs. profit (those interested in maximizing consumption); political pressure vs. evidence- and logic-based arguments; restriction (too much stimulates the black market) vs. lack of restriction (which would give vulnerable groups access to drugs). Should a new model for the cannabis market be similar to the one for alcohol? To what extent should advertising and promotion be allowed? How should the production model be regulated and how should prices be regulated, particularly the prices of the different varieties of cannabis? Taxes are another issue. There is no single optimal model. The model is developed by trial and error. Whatever regime is ultimately implemented, however, it is important to maintain flexibility. The models can be adapted to the particular cultural characteristics of each country and to a variety of substances. They should be "made to order," because there is no single "right" model for all.

Fourth, the participants addressed **market mobility and cross-border differences**. Experiences of other countries that have progressive cannabis policies were presented, including the Czech Republic, Holland and the province of Catalonia. So-called 'drug tourism,' was questioned, as it was considered more a consequence of international treaties and prohibitions. Would registration of users be a solution? In Uruguay, registration would seek to harmonize use with domestic supply. There is no reason for registration to affect users' rights, as registry systems are also implemented in sectors such as education and health. It is important that users (organizations of people who grow cannabis for their own use, who tend to challenge both drug trafficking and the capitalist system) participate in this debate, as has occurred in Uruguay, where they participated in the advisory group on the drafting of the law. What must be done to ensure that the registry proposal does not put a damper on user participation? The experience of the Czech Republic, where records are destroyed after one month, was mentioned in this regard.

The fifth topic was options for **regulation of marihuana within the framework of treaties**. It is important to take advantage of loopholes, ambiguities and inconsistencies between treaties and national laws or other international treaties, use strategies such as renouncing treaties (as Bolivia did recently), and make domestic arrangements, taking into account the incompatibility between treaties and national laws. In the area of use, there are many options, because treaties do not prohibit use; why, then, should countries not seek ways of regulating the substance? Although there are many examples of countries that do this – there are significant cases of reforms and of contradictory situations, such as the approval of recreational marihuana in two states in the United

States, one very prohibitionist country, which is difficult to sustain within the current regulatory framework – an international reform of the treaties does not appear imminent. At the same time, there has traditionally been non-compliance with the treaties; even the United States has frequently failed to comply. In addition, the INCB cannot be more than a ‘paper tiger.’ There are legitimate justifications (health protection, combating drug trafficking) for non-compliance with treaties.

Sixth, the participants highlighted **reforms of cannabis legislation currently under way in several Latin American countries.** The starting point is the principle that the law should aim to protect human freedom, which in terms of drug policies means control of use in a way that also guarantees consumers’ rights. Various cases were discussed. *Brazil* implemented harm-reduction measures in the past, but is now backpedaling. In *Chile*, which has a long cultural tradition of moral authoritarianism and a conservative society, prominent politicians nevertheless now support cannabis regulation. *Mexico*, where the failure of the drug war is so obvious, has made great progress in the debate, and legislative proposals for cannabis are now being discussed. In *Argentina*, several proposals for decriminalizing cannabis use are under discussion; in addition, with the “Arriola ruling,” the Supreme Court of Justice reinterpreted criminal law and established that decriminalizing possession for personal use does not violate international treaties. *Uruguay*’s legislation has placed the country in an international position in favor of protecting its sovereignty and defending the public interest. In all these countries, however, public opinion still tends to be reticent, in contrast with the participation of grassroots movements in the debate and development of proposals. One major challenge is how to change the negative public perception of cannabis and users. Finally, there was a proposal to create a regional advisory group to provide support, so countries do not feel that they are alone in assuming the political costs of reform.

Finally, the participants examined **strategies and paths for reform.** It was noted that in the state of Washington, for example, specific quantities for use were defined and the agency responsible for regulating alcohol was charged with designing a regulatory model for legal access to the permissible amounts. It was established that tax revenue would be allocated to education and public health. But a communication strategy is needed to reach people who oppose marihuana. The idea is that although they are opposed to the drug, they are not opposed to the law. It is important to integrate civil society and activists in platforms that support reform. In the international sphere, little can be expected of UNGASS, but it is possible to support the various initiatives that have emerged recently and identify a group of like-minded countries interested in moving toward change. The argument that human rights must be harmonized with drug policy is an important point in Uruguay’s international policy. In Latin America, there is increasing awareness of change, and criticism has been voiced in important international forums. The OAS report is a sign of this. Steps taken at the country level must not be conditioned by international steps; local progress is important. The debate so far has focused on cannabis, but it should go further and involve issues related to organized crime, arms trafficking and money laundering.