

## The United Nations and Harm Reduction- Revisited<sup>1</sup>

### An unauthorised report on the outcomes of the 48<sup>th</sup> CND session

The US pressure on the UN Office on Drugs and Crime (UNODC) to withdraw support from needle exchange and other harm reduction approaches backfired at the 48th session of the UN Commission on Narcotic Drugs (CND) from 7-11 March in Vienna. During the thematic debate on the issue delegates from around the globe stood up to defend the overwhelming evidence that harm reduction measures are effective against the spread of HIV/AIDS. In a marked shift from previous years, the European Union presented a common position on this issue, and Latin American, African and Asian countries almost unanimously showed support for harm reduction programmes. One after the other explained that they implement needle exchange and substitution treatment projects, convinced by the available evidence and lessons learned from other countries that a humane and pragmatic response to injecting drug use - as a major triggering factor in the HIV/AIDS crisis in many countries- is the only effective way to reverse the epidemic.

The US delegation in Vienna stood virtually alone in its anti-harm reduction campaign. Japan was the only country seconding the US fully in its 'bullying flat-earthism' as the Washington Post called it in an editorial a few days before the start of the CND meeting. On particular moments during the tense negotiations, unfortunately, Russia and Malaysia also sided with the zero tolerance ideology. The US and Japan rank high among the major donors that keep UNODC running. Moreover, CND resolutions are agreed by consensus, so even a small minority can block any progress, which they effectively did on the HIV/AIDS issue. In terms of formal outcomes the results are most disappointing therefore, perhaps a step backwards regarding the ambiguity surrounding the mandate for UNODC to collaborate in harm reduction efforts. Still, the session marked an important moment in global drug policy making, demonstrating that the rising tide in support of harm reduction has crossed its point of no return.

#### Recommendations

**Harm reduction deserves its place in the CND, UNODC, the INCB and the UN Conventions. It is time to recognise the paradigm shift of the past decade, the gradual erosion of zero-tolerance ideology.**

**The US must acknowledge the evidence that needle exchange is an effective policy intervention, "it should at least allow the rest of the world to get on with saving millions of lives" which requires a clear mandate for the UNODC to support harm reduction projects where countries request the agency to do so.**

**Harm reduction-friendly nations should consider increasing funding to UNODC to diminish the agency's vulnerability to US donor pressure.**

**The functioning of the CND and the governing structure of UNODC should be reviewed within the broader context of UN reform.**

**For the sake of UN consistency, UNODC's paralysed mandate in the field of harm reduction and HIV prevention should be discussed by UNAIDS and the higher UN echelons (ECOSOC, GA, SG).**

**Better co-ordination among the expanding group of harm reduction-friendly countries within the EU and cross-regionally could enable breakthroughs at the next CND and in 2008.**

<sup>1</sup> TNI Drug Policy Briefing No. 12, "The United Nations and Harm Reduction", was released just prior to the CND meeting and analysed the lead-up to the session, the background to the US pressure on UNODC, and positions taken by NGOs, media, UNODC itself and other UN agencies on harm reduction in general and in response to this new crisis in US-UN relations. See <http://www.tni.org/policybriefings/brief12.pdf>

## Setting the tone

In his opening remarks at the CND session Monday morning, UNODC Executive Director Antonio Maria Costa did not directly distance his office from harm reduction, calling it *"a simple concept that has turned into an ideological battlefield"*. He tried to neutralise the controversy by saying that *"every drug control measure sponsored by UNODC is a form of harm reduction, a means of reducing the damaging consequences of drugs."* With regard to the spread of blood-borne infections through the sharing of needles among injecting drug users, he stated that all people at risk *"need tangible, targeted and immediate help, before this pandemic evolves into the biggest killer in history."* He clarified that UNODC *"is mandated, via the UN Drugs Conventions, not just to reduce the prevalence of drug abuse, but also to reduce the harm caused by drugs."*

Finding the right tone and wording for his speech was a delicate balancing act. There is a Sword of Damocles hanging over Mr Costa's head: if he expresses himself as being too favourable to harm reduction and needle exchange, US funding would be in immediate jeopardy. On the other hand, he has been fully aware of the broad mobilisation in the past months calling on him to stay in tune with the rest of the UN community and not to distance himself and the agency from measures proven to save lives. He referenced language from last year's report of the International Narcotics Control Board (INCB) that *"governments need to adopt measures that may decrease the sharing of needles among injecting drug users in order to limit the spread of HIV/AIDS. At the same time. . . prophylactic measures should not promote and/or facilitate drug abuse."* Struggling to maintain his balance, he said on the one hand that the *"best form of dealing with the problem is, of course, abstinence"* and at UNODC we *"unequivocally reject any initiative, well intended as it may be, that could lead to the perpetuation of drug abuse"*. On the other hand, however, his message was also clear: *"How to respond to the plight of injecting drug addicts who risk HIV infection is not a difficult question. Quite simply, we must not deny these addicts any genuine opportunities to remain HIV negative."*

Mr Costa encouraged the Commission to argue these matters openly and frankly, *"in the hope that this CND Session will be remembered as a turning point in drug control policy"*. Passionate debate about these controversies is the salt of policymaking, according to him, and *"the only way to make CND discussions worth attending."*

The other important tone-setter was US Drug Czar John P. Walters. Originally, the US delegation was to be headed by Assistant Secretary of State Robert B. Charles, the messenger of the funding pressure at a meeting with Mr Costa last November. Mr Charles meanwhile resigned, apparently over disagreements with Secretary of State Condoleezza Rice. Mr Walters now heads the Bush administration campaign against *"popular myths regarding the effectiveness of so-called 'harm reduction' policies"*, as they are referred to on his recently launched blog website *'pushingback.com'*.

Addressing the CND after Mr. Costa, Mr. Walters warned against *"acquiescing or practicing appeasement with addiction"*. Walters also invoked the wisdom of the INCB, saying that *"the guardian of our Conventions, has consistently rejected programs such as government-approved or supported injection rooms, government fostering or sustaining injection drug use, and the dispensing of drugs for anything other than medical or scientific research purposes"*. He had no doubt that the overwhelming majority of nations reject actions that are incompatible with the Conventions. *"Yet some contend that these very Conventions and agreements are somehow an impediment to efforts addressing another global crisis, the spread of HIV/AIDS and other blood-borne pathogens (such as Hepatitis C). This charge is wrong—the Conventions are a bulwark against the public health tragedy of blood-borne diseases and the public health tragedy of drug use and addiction."* In response to accusations from NGOs and the media that the Bush administration was obstructing global HIV prevention efforts, he said that no other government had committed as many resources to fighting HIV/AIDS and stressed that *"the most powerful response is to reduce the prevalence of drug use, thereby reducing not only the social harms that attend drug use, but as well, the devas-*

tating harm found within the drugs themselves." "Continued drug use is a fundamental cause of the dangers we face from blood-borne diseases."<sup>2</sup>

The week prior to the Vienna meeting, Mr. Walters had visited Brussels, Paris, London and The Netherlands, aiming "to discuss combating so-called 'harm reduction' policies",<sup>3</sup> not an easy task on a continent that recently and unanimously agreed on a common drugs strategy where harm reduction is one of the stated aims and pillars. Briefing the press afterwards, his tone was somewhat milder, saying that during his trip he learned that the real division was between "those who see the seriousness of the problem of drugs [...]; and those who want to cover up the harm of drugs and say we ought to tolerate it, and under the guise of harm reduction say, well, we ought to just manage the harm, that drug use is okay". He had not met any government official during his trip, however, who thought that 'drug use was okay' and found much more common ground than he had expected which "was a pleasant surprise".<sup>4</sup>

There was also a pleasant surprise for the CND audience in Mr. Walters' address. After the drum-roll in the months before, Walters did not specifically condemn or even mention needle or syringe exchange programmes. He rejected 'government fostering or sustaining injection drug use', but only by calling for strict adherence to the Conventions and leaving judgement to the INCB. In doing so, Mr Walters dug the grave for his own anti-needle exchange campaign in a sense. While the INCB has regularly used cryptic and condemning language to describe various harm reduction measures, on the specific action of needle exchange the Board's message has been rather clear – the controversial opinion of its previous President Mr. Emafo aside. "Governments need to adopt measures that may decrease the sharing of hypodermic needles among injecting drug abusers in order to limit the spread of HIV/AIDS."<sup>5</sup> And in this year's report, after the mantra that "the primary and overriding focus of all interventions must be to prevent drug abuse which is the root of the problem" the foreword stresses that governments "must ensure that current drug control policies do not perpetuate the vicious circle of injecting drug abuse and HIV/AIDS. Measures to prevent the spread of infectious diseases must not be seen as facilitating or even promoting drug abuse".<sup>6</sup>

The tone sought seemed to be one of reconciliation, both Mr Costa and Mr Walters wanted to avoid an open confrontation at the CND. They tried to depolarise the issues, though for the good listener it was also clear that both had dug in their heels. UNODC had clearly spoken out with 'we must not deny these addicts any genuine opportunities to remain HIV negative', while the US government basically drew the line by saying that the most powerful response to the HIV crisis was to reduce the prevalence of drug use, and thereby reducing the social harms that attend drug use. This was a polite way to say that in Mr Walter's government's view abstinence is the only acceptable form of HIV prevention for drug users, echoing the administration's abstinence-only position on sexual HIV prevention.

### Thematic debate on HIV/AIDS

The second day was devoted to the thematic debate on prevention, treatment and rehabilitation, with a session on community capacity-building and another on 'preventing HIV/AIDS and other blood-borne diseases in the context of drug abuse prevention'. Thematic debates were introduced to the CND in 2001 to make the often tedious and formal proceedings more lively and enable a more interactive discussion with a different focus each year. The debate

<sup>2</sup> Remarks by John P. Walters, Director, United States National Drug Control Policy, United Nations Commission on Narcotic Drugs, March 7, 2005; <http://www.whitehousedrugpolicy.gov/news/speech05/030705.html>

<sup>3</sup> Director Walters Begins Five Nation European Visit: European Officials Unite to Combat "Harm Reduction" Policies; pushingback.com, Tuesday, March 1, 2005.

<sup>4</sup> U.S. Perspectives on European Drug Policy and "Harm Reduction", John Walters, Director of the Office of National Drug Control Policy, The White House; Calvina Fay, Executive Director of Drug Free America Foundation and Save Our Society from Drugs (S.O.S.), Foreign Press Center Briefing, Washington, DC, March 10, 2005.

<sup>5</sup> E/INCB/2003/1, Report of the International Narcotics Control Board for 2003, section 'K. Measures to reduce harm', par. 221, United Nations 2004.

<sup>6</sup> E/INCB/2004/1, Report of the International Narcotics Control Board for 2004, Foreword, United Nations 2005.

on HIV/AIDS and drug use this year was the appropriate opportunity for participants to express their opinion on harm reduction and the US pressure on UNODC.

The thematic session turned out to be a massive endorsement of harm reduction measures to counter the HIV/AIDS epidemic. Out of the thirty country delegates taking the floor, 17 used explicit harm reduction terminology and many more the accepted CND language of 'reducing the negative consequences of drug use', which basically amounts to the same. The US delegation had the shortest speech of all, no more than 90 seconds, supporting in surprisingly positive terms the effectiveness of substitution treatment, which 'should be made widely available'. Of course, becoming drug-free should be the ultimate aim of any treatment, measures that facilitate drug use should not be applied and therefore harm reduction as a term should be avoided. But again, no specific mention of needle exchange, nor any call on UNODC to refrain from supporting harm reduction-oriented activities, was made. Japan, in fact, was the only country to directly express doubt about needle exchange, concerned that distribution of needles might increase drug abuse.

For the rest it was an impressive demonstration of changed attitudes around the world concerning harm reduction in the HIV/AIDS context. The Luxembourg Presidency delivered a clear statement on behalf of the European Union. Presenting a strong common position was possible thanks to the agreement reached within the EU last year on the inclusion of harm reduction in the EU Drugs Strategy 2005-2012. The draft EU Drugs Action Plan (2005-2008) also includes "*availability and access to harm reduction services*" and a commitment to "*ensure access to services for addicts, including substitution and maintenance treatment, needle exchange and similar services assigned to reduce risks*".<sup>7</sup> In its statement, the EU outlined the key UN and EU policy documents providing guidance for efforts to prevent HIV transmission among injecting drug users, including those that provide a mandate to ensure access to clean needles. Regarding the "*ongoing debate on the appropriateness of some HIV/AIDS reduction methods and whether they could undermine drug abuse control policy*", the EU said that 'a relatively robust evidence base for effectiveness' existed and referred to two new documents that had been prepared for this thematic debate.

The WHO, shortly before the CND, released a report in its *Evidence for Action* series on the "Effectiveness of sterile needle and syringe programming in reducing HIV/AIDS among injecting drug users". The report concludes that "*after almost two decades of extensive research, there is still no persuasive evidence that needle syringe programmes increase the initiation, duration or frequency of illicit drug use or drug injecting. [] There is compelling evidence that increasing the availability and utilization of sterile injecting equipment by IDUs reduces HIV infection substantially. [] Needle syringe programmes have additional and worthwhile benefits apart from reducing HIV infection among IDUs.*"<sup>8</sup> The WHO observer also made a statement during the debate to underline the fact that WHO is actively promoting harm reduction for drug users because there is clear evidence that measures such as needle exchange, condom distribution and substitution treatment are highly effective.

The European Monitoring Centre (EMCDDA) produced a briefing paper at the request of the EU Horizontal Drugs Group. The paper, used in the process of drafting the EU statement, concludes that "*overall the evidence strongly supports the contention that needle and syringe exchange provision can make an important contribution to reducing HIV transmission in drug injectors. Furthermore, needle and syringe exchange provision can be effective in engaging with populations of drug users not in contact with other services and may provide a conduit to drug treatment and primary health care services. No convincing evidence exists that its provision negatively impacts on other prevention or drug control activities.*"<sup>9</sup>

<sup>7</sup> COM(2005) 45 final, *Communication from the Commission to the European Parliament and the Council on a EU Drugs Action Plan (2005-2008)*, Point 15, Brussels, 14 February 2005.

<sup>8</sup> *Effectiveness of sterile needle and syringe programming in reducing HIV/AIDS among injecting drug users*; Evidence for Action Technical Papers, World Health Organisation 2004.  
[http://www.who.int/hiv/pub/prev\\_care/en/effectivenesssterileneedle.pdf](http://www.who.int/hiv/pub/prev_care/en/effectivenesssterileneedle.pdf)

<sup>9</sup> *A European perspective on responding to blood borne infections among injecting drug users*, A Short Briefing Paper, EMCDDA, Lisbon 2005.

## Selective highlights

Brazil stressed that the sharp reduction in the HIV infection rate among drug users was fully thanks to harm reduction. The Netherlands said that pragmatic responses were necessary, that scientific evidence has convincingly demonstrated the effectiveness of needle exchange, that the INCB considers it to be in line with the conventions and that therefore UNODC should support harm reduction measures upon request of countries. Otherwise, The Netherlands argued, it could hamper HIV/AIDS prevention efforts and we should not allow this to happen. Finland urged that countries should be free to implement needle exchange and other measures and that UNODC should support this.

France said it had a resolute commitment to harm reduction because abstinence-only has not shown to be effective in containing HIV/AIDS, and drug users are citizens with rights, not irresponsible criminals. He regretted that harm reduction had been introduced in southern Europe later than in the north, and stressed that the same mistake should not be made in Asia. Spain acknowledged it, too, came late to harm reduction but over the past seven years has implemented a wide range of measures at full-blown speed, now reaching 1500 projects, including in prisons. Sweden may well have used the term harm reduction in a positive context for the very first time during this CND session, referring to its needle exchange programme and saying that they were implementing 'not only harm reduction measures' but a combination of strong measures with the primary goal of reducing drug use, while maintaining respect for human rights for all.

Iran, with its huge number of drug users (about 2 million, of whom 1.2 million are considered problem users) told of the establishment of its National Harm Reduction Committee to co-ordinate fast implementation of country-wide drop-in centres, substitution treatment and distribution of clean injecting equipment, including in prisons. Australia spoke of how the difficult issues at stake have forced countries to take measures that ten years ago would have been thought impossible, but that these were brave measures in the best interest of our citizens. A national study had estimated that in Australia approximately 25,000 HIV infections had been prevented by needle and syringe programmes. Australia also said that it is not proper for certain countries to tell other countries what to or what not to do. Instead, we all should help each other by sharing our best experiences of what works and to do that which we would do for our family and friends.

China stated that they initiated methadone pilot projects and distribution of sterile needles in 2000, and countries like Turkey, Croatia, Slovenia and Pakistan all told of their harm reduction projects. Even Malaysia mentioned its comprehensive approach, including the aim of reducing the harmful consequences of drug abuse in community clinics that first help drug users move to non-injecting and then to becoming drug free. The observer from the Council of Europe's Pompidou Group said that the pro-active risk reduction interventions proven to be effective are those that ensure safer use, safer sex and access to clean needles. Quasi-ideological battles about certain measures can be defused by solid research and evidence. Switzerland considered all its harm reduction measures, including heroin-assisted treatment, to be fully in accordance with the UN conventions. Canada stressed it was a strong supporter of the UN and that UNODC had an important role to play, including the reduction of drug-related harm. For the first time, a person living with HIV, representing the European AIDS Treatment Group, addressed the CND and called on countries to remove any remaining legal obstacles to methadone treatment.

## The role of UNAIDS

The thematic debate was chaired by Peter Piot, UNAIDS Executive Director, fully aware of the political tensions and sensitivities around the theme. *"Though policies meant to combat AIDS and those meant to curb drug abuse in essence are complementary, several countries have conflicting regulations in place"*, Mr Piot said in introducing the session, explaining that the links between drugs and the epidemic are one of his biggest headaches. There was a need for dialogue between the world of drug control and the world of HIV prevention, miss-

ing in many countries, he said, expressing his hope that UNODC's current chairmanship of the UNAIDS Committee of Co-sponsoring Organizations would strengthen such a dialogue at the international level.

*"The job of the people in charge of drug control programs is to make sure that no one takes drugs. This will also ultimately reduce the risk of HIV," Mr Piot said. "My job is to ensure that no one becomes infected with HIV...Let's not fall into the trap of a false dichotomy."<sup>10</sup> If no drugs were available, there would be no spread of HIV through drug injection, so demand reduction contributes to HIV prevention. While people inject drugs, we must do everything we can to prevent them becoming infected, "I see no contradiction". Preventing drug use was a primary priority, substitution treatment a useful way to reach out to injecting drug users, and access to condoms and clean needles important to prevent infection. It needs to be a full package, a balanced approach. No magic solutions or quick fixes are at hand. Harm reduction has become a very loaded issue, but let's not have a debate about semantics, the important thing is to save lives, he said.*

Mr Piot stressed the point again in London the next day at a high level meeting on donor co-ordination in the fight against AIDS, co-sponsored by UNAIDS, the UK, France, and the US, for which Mr Costa also had to leave the CND meeting for some time during the week. *"We cannot afford to let our differences get in the way of saving lives. The history of AIDS has shown us that when we are united, people win. When we are divided, the virus wins."<sup>11</sup> At the International Harm Reduction Conference later that month in Belfast, again UNAIDS avoided any mention of the word harm reduction, stressing common ground instead of divisive terminology. *"It was agreed by the UN system that drug control policies should reduce and not increase the HIV risk faced by drug users. At the same time, HIV prevention activities should not inadvertently promote drug use."<sup>12</sup>**

UNAIDS also opts for more careful language to avoid direct confrontation with the Bush administration. Compared to UNODC, the funding balance is quite different, but still, measured in accumulative funding over the past decade, the US is the biggest donor to UNAIDS, with a total of USD 155 million. The Netherlands is a close second at USD 145 million over the past decade and has been its largest donor in the past five years.<sup>13</sup> The UNAIDS retreat to safer common grounds is even more questionable than UNODC's balancing act. UNAIDS derives its mandate directly from the *Declaration of Commitment on HIV/AIDS*<sup>14</sup> adopted at the 2001 General Assembly Special Session (UNGASS), which recognised that effective prevention will require increased access to sterile injecting equipment and explicitly calls on the international community to ensure by 2005 *"harm reduction efforts related to drug use"*.

While summarizing the key points of the thematic debate, Mr Piot pointed at a major change in the terms of the debate as compared to two years ago, also with regard to the number of countries taking active part in the discussion, the implemented practices and real results reported. He then concluded that there was 'clearly no consensus on harm reduction and needle exchange', however. While literally true, it was like a referee concluding in front of a stadium crowd about to celebrate an overwhelming and historical 10-1 victory of their soccer team, that 'the match ended undecided, both sides scored goals'. It was a most unfortunate choice of words. He could as easily have concluded that there was 'near consensus' or that 'only a tiny minority of delegates expressed concern' about needle exchange and other harm reduction measures.

<sup>10</sup> *UNAIDS Urges Closer Cooperation On AIDS, Drug Policy*, Associated Press, March 8, 2005.

<sup>11</sup> Speech by Peter Piot, UNAIDS Executive Director; High Level Meeting 'Making the Money Work: the Three Ones in Action', London, 9th March 2005.

<sup>12</sup> Statement by Dr Purnima Mane, Director, Social Mobilization and Information Joint United Nations Programme on HIV/AIDS; 16th International Harm Reduction Conference, 20-24 March 2005, Belfast, Northern Ireland.

<sup>13</sup> A total of 32 countries donated to UNAIDS last year, see:

[http://www.unaids.org/NetTools/Misc/DocInfo.aspx?href=http://gva-doc-owl/WEBcontent/Documents/pub/Governance/PCB01/Core\\_1995-2004\\_en.xls](http://www.unaids.org/NetTools/Misc/DocInfo.aspx?href=http://gva-doc-owl/WEBcontent/Documents/pub/Governance/PCB01/Core_1995-2004_en.xls)

<sup>14</sup> A/RES/S-26/2. Declaration of Commitment on HIV/AIDS, resolution adopted by the UN General Assembly, 2 August 2001. <http://www.un.org/ga/aids/docs/aress262.pdf>

## Resolutions on HIV/AIDS

The mandate for UNODC to be involved in HIV/AIDS prevention and in reducing the negative consequences of drug use cannot be questioned, as Mr Costa mentioned in his tone-setting speech. In 2003, after long negotiations, Resolution 46/2 (sponsored by The Netherlands and Belgium and backed by the EU) was adopted in which the CND, "*Reiterates its concern at the negative consequences of injecting drug abuse, which include the risk of transmission of blood-borne diseases by the sharing of non-sterile needles, and calls upon Member States to implement measures to reduce injecting drug abuse and its adverse consequences*". The resolution also explicitly requested UNODC to strengthen its role and strategy regarding the prevention of HIV transmission related to drug abuse and strengthen its co-operation with UNAIDS.<sup>15</sup>

Last year, Resolution 47/2 was adopted, after even longer negotiations, as a follow-up, sponsored by Brazil with support from GRULAC (group of Latin American and Caribbean countries). It encouraged UNODC in collaboration with UNAIDS and the WHO to "*pursue their efforts in studying the effectiveness of drug-related HIV/AIDS prevention programmes, and report on the progress made to the Commission on Narcotic Drugs at its forty-eighth session*". It also requested UNODC to convene, with UNAIDS and WHO, an expert group to assist in putting together a specific programme on HIV/AIDS prevention, injecting drug use and risk-taking behaviour, and to prepare a report for the thematic debate this year.<sup>16</sup>

The tasks from last year's resolution were not achieved, only WHO presented its earlier mentioned report on the effectiveness of needle exchange. No voluntary funding became available for the inter-governmental expert group. UNODC experts did prepare a report to follow-up on resolution 47/2, intended to be UNODC's input for the thematic debate on HIV/AIDS. The document was never released, however. The contents of the draft were considered too controversial and it was feared they would trigger more irritation from the US. The draft talked of 'a significant paradigm shift' taking place over the past two decades. It described abstinence-based treatment as a lengthy and difficult process and that the urgency of the HIV/AIDS epidemic may require stabilising strategies that set achievable goals and effectively reduce negative consequences related to drug abuse, while keeping in mind the ultimate goal of freeing people from drug dependence. It also confirmed that no convincing evidence had been found that sterile injecting equipment programmes would have unintended negative consequences such as greater injection frequency or increased drug use.<sup>17</sup> Considered too polemical to distribute, the decision was taken not to distribute any document at all on the issue and to neglect the requests made last year by the CND.

In the preamble to the 2003 Resolution 46/2, reference was made to article 25 from the Universal Declaration of Human Rights: "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services*".<sup>18</sup> Since 1948, health care has been enshrined as a basic human right for everyone – that includes drug users. When Brazil, with support from the GRULAC, tabled the resolution 'HIV/AIDS and the right to health' to confirm that principle at this CND, the US delegation took off their gloves and the relatively polite tone of the first days was gone.

First, for a full day, the US stalled the discussion on two other resolutions on HIV/AIDS sponsored by Nigeria, encouraging countries to ensure affordable access to drug treatment and reduce drug users' barriers to HIV/AIDS care and support, by questioning every word. After lengthy talks, the two were merged into one single watered down text. Then, the US

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<sup>15</sup> E/CN.7/2003/19/Rev.1. Resolution 46/2, *Strengthening strategies regarding the prevention of human immunodeficiency virus/acquired immunodeficiency syndrome in the context of drug abuse*.

<sup>16</sup> E/CN.7/2004/13. Resolution 47/2, *Prevention of HIV/AIDS among drug users*.

<sup>17</sup> *Report on progress made in the effectiveness of drug related HIV/AIDS prevention programmes (UNODC, UNAIDS, WHO and others) (para. 8 of CND resolution 47/2 "Prevention of HIV/AIDS among drug users"*. Unreleased UNODC draft document.

<sup>18</sup> *Universal Declaration of Human Rights*, Article 25, General Assembly resolution 217 A (III) of 10 December 1948.

simply refused in a most undiplomatic way to even discuss the Brazilian proposal. 'We now already have one resolution on HIV/AIDS, why discuss another?'. They had 'fundamental problems with the language' which could not be resolved through negotiations, according to the US spokesman, so it made no sense to even try. This went on for several hours in an informal drafting group on the Thursday evening, the eve of the closing session of this CND. Many countries appealed to the US delegation to at least explain their 'philosophical disagreement' and to make an effort to find consensus language to add Brazil's main points to the merged draft of the Nigerian-sponsored text. 'We have instructions not to discuss this resolution' was the phrase repeated over and over in reply. Russia and Japan also mentioned having serious problems with the text. Later that evening, the only option left was to refer the resolution back to Brazil/GRULAC for formal withdrawal. The next day, announcing the withdrawal, Brazil and Bolivia, in name of the GRULAC, made a statement saying they regretted the resolution had not been properly discussed, felt that many countries supported their efforts to recognise the right to health care for drug users and the importance of harm reduction in the context of HIV prevention, and that they would bring the issue back to the CND agenda next year.

### **Guidance for UNODC**

The final task for this CND was to approve the draft report of the session, the official summary of proceedings. The section of the report summarising the thematic debate stated accurately that most speakers in the debate had testified to the success of comprehensive HIV prevention programmes including syringe exchange. The term 'harm reduction', however, does not appear once, in spite of its use by the majority of speakers. The report also quoted Mr Piot's reference to there being 'clearly no consensus'. It also mentioned that several countries had said that UNODC should support measures like needle exchange upon request of countries. The inclusion of this triggered the final fight, extending the closure of the CND meeting for an hour and almost paralysing it. The US convinced Malaysia, who had said nothing of the sort during the thematic debate itself, to raise the point that it should be clearly stated in the report that there was no consensus about the issue of UNODC support for such programmes. The US and Japan quickly backed the Malaysian suggestion, though they too had made no specific mention of the role of UNODC during the debate.

The Netherlands, Switzerland, Germany, Croatia, Macedonia, Finland, UK, Brazil and Australia all argued that the report should simply reflect what was actually said in the debate, that it was clear enough from the rest of the report that there was no consensus on the practice of the provision of clean needles, but that no-one had said explicitly that UNODC should not be involved at all. 'If we expect from the rapporteur to include in his summary guesses about what other delegates might have been thinking, we could end up with a very long report,' commented the Swiss delegate. The US, however, feared that the phrasing 'might be interpreted as guidance' and was intransigent in its demand that the phrase either had to be deleted, or a phrase had to be added that other countries had spoken out against UNODC support for needle and syringe programmes, though no-one had actually done so. The closing session was suspended to enable the two sides to come up with a phrasing they could both live with, which in the end they managed to find.

At a press briefing early in the week Mr. Costa had stressed that on the issue of HIV/AIDS prevention among drug users Member States had "an important opportunity during the 2005 CND to offer the UNODC clear guidance on how to operationalise those policies". Obtaining guidance from the CND on this matter, via a resolution or the formal report, would have been the only way for UNODC to loosen the stranglehold the US holds on the agency. At the end of the CND meeting, however, in spite of the overwhelming support expressed for harm reduction, the formal result was a withdrawn resolution and a report concluding there was clearly no consensus.



## Conclusions and Next Steps

Harm reduction must find its deserved place at the level of the CND, UNODC, the INCB and the Conventions. This is not a fight about semantics, it is time to recognise the paradigm shift to pragmatism that has been taking place over the past decade, the gradual erosion of the zero-tolerance ideology as the guiding principle of global drug policy. "*Harm Reduction is any program or policy designed to reduce drug-related harm without requiring the cessation of drug use*" is a commonly used definition.<sup>19</sup> It simply means an understanding that we are not dealing with a binary 0/1 issue. It represents a shift from thinking in terms of yes/no to more/less, from the moral 'good or bad' to the pragmatic 'worse or better'. It is about recognition that many health and social benefits for drug users and for society at large can be gained through gradual improvements. It is a problematic shift, however, as the drug control conventions are indeed firmly rooted in binary thinking. Although most harm reduction practices can be defended under the letter of the conventions, relations with the spirit behind them are quite strained.

Characterising the harm reduction debate as an ideological battleground no longer covers the reality. Harm reduction practices have been submitted to numerous scientific evaluations – far more than any other aspect of drug policy – and over time a solid foundation of evidence to support claims of their effectiveness has emerged. This evidence-base is now recognised by the great majority of nation states and UN agencies and many now use harm reduction terminology to substantiate an essential component of their policies. The 'battle' nowadays is therefore ideological in nature from only one side, that which has lost the scientific argument.

The main controversy on the table for this CND session – clearer guidance to UNODC regarding its involvement in needle exchange and harm reduction – has not been resolved. Next year the outcomes might be the same if a similar resolution is tabled, openly calling for harm reduction in the context of HIV/AIDS and for respect for human rights and the rights to health care of drug users. In the end, there are only a few ways out of this dilemma:

1. The US government could acknowledge the evidence that needle exchange is an effective policy intervention and that – as the New York Times wrote – "*it should at least allow the rest of the world to get on with saving millions of lives*". This requires a clear mandate to the UNODC to support harm reduction projects where countries request the agency to do so. Several UNODC country offices have in fact already become involved in the past years upon the request of their host nations. The US could give up 'pushing back'. This CND has made clear that this is not likely to happen under this ideologically-driven US administration. In full recognition of their isolation, the US delegation demonstrated its determination to simply avoid the arguments, and instead use bullying tactics when necessary to counter the compelling evidence presented. This it does against the tide of growing support for harm reduction worldwide, in the face of the visible opposition and anger from UN agencies, a majority of member states, and the biggest NGO mobilisation so far around a CND meeting.
2. Harm reduction-friendly donors could increase their funding to UNODC in order to diminish the agency's vulnerability to US pressures, at best accompanied by an (informally communicated) joint disposition to take over at least the 'general purpose'<sup>20</sup> part of the US donation if necessary. The annual US donation to UNODC is about USD 20 million, of which only a few million is pledged for general purposes, crucial for the functioning of the office because most staff salaries are paid from that fund. This is not a huge budget bur-

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<sup>19</sup> *CAMH and Harm Reduction: A Background Paper*. A Background Paper on the meaning and application of harm reduction for substance use issues. Centre for Addiction and Mental Health (CAMH), Canada, May 2002. [http://www.camh.net/pdf/harm\\_red\\_paper02.pdf](http://www.camh.net/pdf/harm_red_paper02.pdf)

<sup>20</sup> General purpose funds are pledged to UNODC without any earmarking while special purpose funds are pledged for special projects or soft-earmarked for a specific geographic region or thematic area. The aim is to maintain the general purpose fund at a minimum of \$8 million, but ideally at \$15 million per year, comparing to a total budget (drugs & crime) for the biennium 2004-2005 of \$225 million, and for 2006-2007 of \$285 million.

den for a group of say five countries to take over. It may be a cheap means of ensuring their policy lines are better represented and, moreover, that UNODC is able to help save lives by supporting harm reduction projects. There is an impasse here, since for several potential donors UNODC has too strong a zero tolerance reputation. This is the result of the long-term influence of the US, Japan, Italy and Sweden as the largest donors and hence the dominant tone-setters.<sup>21</sup> It is a dilemma, but the fact that this CND has not been able to resolve it, and the negative impact of US pressure, should prompt countries to consider this option. Recent events have clearly demonstrated that if donors with another vision of the direction of UNODC do not put their money where their mouth is, the agency might definitely be lost, becoming simply an instrument and voice for a particular minority position. This may well obstruct any chance of the paradigm shift consolidating at the UN level. Now is the time for harm reduction-friendly nations to show their commitment to fulfilling the potential of a more neutral and evidence-driven UN drug policy agency.

3. The functioning of the CND and the governing structure of UNODC could be reviewed fundamentally. One option might be to introduce majority voting to overcome deadlocks caused by a small minority, as other subsidiary bodies of the Economic and Social Council (ECOSOC) have done.<sup>22</sup> Calling for a vote could be considered on moments such as this, where a minority instrumentalises its donor power and abuses the consensus-based approach in seeking to monopolise the policy guidance the CND is required to provide to UNODC. Many countries are hesitant to go in this direction, shying away from naming and shaming. Global uniformity of drug policies is unthinkable given the current divides and is undesirable given cultural and social differences. CND decision-making procedures need to respect diversity and cannot be used to either condemn individual countries' performance nor to pressure countries to apply certain legislation, measure or treaty interpretation domestically. Another path to take could be to look at current problems in CND functioning, UNODC policy guidance and UNODC donor dependence, within the broader context of UN reform. Secretary General Kofi Annan recently launched a series of recommendations to improve the functioning of the whole UN system, including the ECOSOC. Far-reaching suggestions have been tabled to reshape the Commission on Human Rights, for example. According to Mr Annan, the politicisation of the sessions is undermining its task and casts a shadow over the reputation of the entire UN.<sup>23</sup> The report does not specifically address the role of the CND and UNODC, but the agenda for the upcoming summit in September 2005 where key decisions about UN reform will be made, should include a critical look at the operational shortcomings and politicisation of the UN drug control machinery too. As a matter of principle, all UN agencies, including UNODC, should reflect differences of opinion among its member states in a balanced way and consistent with basic democratic standards and procedures. It is not for nothing that the UN Charter highlights the 'faith in fundamental human rights, in the dignity and worth of the human person', of 'the equal rights of nations large and small' and of the need 'to practice tolerance with one another as good neighbours'.

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<sup>21</sup> The Major Donors Group (contributing more than \$500,000 per year) consists of 21 donors: US, Italy, Sweden, Japan, UK, Norway, European Commission, Germany, France, Austria, Canada, Luxembourg, Switzerland, The Netherlands, Ireland, Australia, Belgium, Denmark, Finland, Spain, and Turkey. For more info on the UNODC-donor relationships, see: *Drug policies and the funding of the UNODC*, Francisco Thoumi and Ernestien Jensema, Senlis Council, Paris October 2003, [http://www.drug-policy.org/documents/Thoumi\\_Jensema\\_paper](http://www.drug-policy.org/documents/Thoumi_Jensema_paper); and *Working in Partnership with UNODC/UNDCP, A Swedish Strategy Framework for 2004-2007*, Swedish International Development Cooperation Agency, Ministry for Foreign Affairs, Stockholm 2004, [http://www.sida.se/content/1/c6/02/49/61/SIDA3640en\\_UNODC-UNDCP%20web.pdf](http://www.sida.se/content/1/c6/02/49/61/SIDA3640en_UNODC-UNDCP%20web.pdf)

<sup>22</sup> The operational procedure of the CND -53 Member States - has developed over time into a consensus-seeking mode and the nowadays accepted practice of non-voting. This is not based on the official "Rules of Procedure of the Functional Commissions of the Economic and Social Council" [<http://www.ohchr.org/english/bodies/rules.htm>] which describes voting procedures in detail and states that "A proposal or motion before the commission for decision shall be voted upon if any member so requests." And, "decisions of the commission shall be made by a majority of the members present and voting." The UN Commission on Human Rights, another ECOSOC commission ruled by the same procedure, does indeed vote on certain resolutions.

<sup>23</sup> A/59/2005. *In larger freedom: towards development, security and human rights for all*; Report of the Secretary-General; General Assembly, 21 March 2005.

4. Apart from structural reform, the particular decision about UNODC's mandate in the field of harm reduction and HIV prevention, and the UN inconsistency that results from the current deadlock could be duly brought to the attention of other UN agencies and to the higher echelons of ECOSOC, the General Assembly and the Secretary General. After all, UNODC is now practically paralysed in supporting harm reduction projects because if it does its funding is in jeopardy to such an extent that it endangers the very existence of the agency, while other UN agencies regard such projects as having pivotal importance to the urgent joint task of HIV/AIDS prevention. The matter at hand is of great concern to the entire international community as reflected in the UN Millennium Development Goals and cannot be left in the indecisive hands of the CND therefore. The UN system as a whole should be enabled to operate consistently and effectively on a matter of this importance, thus higher UN intervention may be required to solve the current crisis. The outcomes of this CND meeting need to be discussed at the next meeting of the UNAIDS Programme Coordinating Board (PCB) in June.<sup>24</sup> The UNAIDS Secretariat and its co-sponsors, including UNODC, are developing a strategy to intensify HIV prevention and put it more prominently on the global agenda, an effort that risks being seriously weakened by the inability of the CND to resolve the issue of UNODC's mandate in this regard. On the other hand, if the UNAIDS PCB adopts in June a clear set of guiding principles for HIV prevention among drug users, including explicit language on access to clean needles and harm reduction services (e.g. reconfirming the 2001 UNGASS declaration), it may well enhance possibilities for UNODC to be involved in such efforts as well.
5. Better co-ordination mechanisms could be developed among the expanding group of harm reduction-friendly countries. The surprise appearance of the Brazil resolution, without any prior consultation with friends or foes, weakened the possibilities of designing a co-ordinated strategy to defend it. Within Europe, developments have been progressing significantly, but still the consensus is a rather fragile one as ongoing objections from Lithuania and Sweden against too explicit mention of harm reduction in EU policy documents have demonstrated. Further strengthening the evidence-base for harm reduction remains an important task for agencies such as the EMCDDA and the Pompidou Group. Consolidating harm reduction as a basic pillar of both the EU and the GRULAC drug policy would strengthen the performance of both blocs in international dialogue efforts - at the UN level, in the EU-US meeting on drugs in June, and in the EU-Latin America meeting that same month. More cross-regional collaboration, exchange of experiences and joint strategising in preparation for next year's CND will be essential to achieve a breakthrough.

All these options should be explored with considerable urgency. At stake is not only the urgent matter of an effective UNODC contribution to the global mission of reversing the AIDS epidemic, but also the question of whether the agency will be able to play a useful role in the debate towards the 2008 review of the overall UN drugs strategy. The direction policy trends are taking is no longer an unanswered question after this CND. The main trend is towards a more pragmatic and less ideological approach, evidence-driven and with harm reduction as a key guiding principle for the future.

The 2008 review will provide an appropriate moment to restore the balance, to recognise the paradigm shifts and to open the discussion about their ultimate consequence: to adapt the UN conventions in such a way that the embedded straight-jacketed zero tolerance ideology is reshaped into a framework that allows more space for diversity in national and regional drug policy making, in accordance with cultural differences. Now is the moment to start thinking about how to prepare and organise the review process, these things take time...

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<sup>24</sup> UNAIDS is guided by a Programme Coordinating Board (PCB) which serves as its governing body. The PCB has representatives of 22 governments from all regions of the world, the ten UNAIDS Cosponsors, and five nongovernmental organizations (NGOs), including associations of people living with HIV/AIDS. UNAIDS is the first United Nations programme to include NGOs in its governing body. Its next meeting is 28-29 June 2005 in Geneva. <http://www.unaids.org/Unaid/EN/About+UNAIDS/Governance/Programme+Coordinating+Board.asp>

## NGO presence at the 48<sup>th</sup> CND session

NGO participation and side-events around the 48<sup>th</sup> CND session have never been so active. The drugs issue seems to be catching up with human rights, health and development in terms of NGO participation at the UN level. Canada, the only country with a tradition of including an NGO representative in its delegation, this year was joined by at least four countries - Brazil, Poland, Lithuania and Iran- who brought representatives of harm reduction NGOs in their government delegation to Vienna. The week was full with NGO-hosted side events.

On Tuesday March 8, the Senlis Council held its 4<sup>th</sup> International Symposium on Global Drug Policy, with a lunch session on *'Promoting Public Health Policies and Practices'*, speakers from the International Federation of Red Cross and Red Crescent Societies, a member of the INCB (in his personal capacity) and Canada; and a dinner session on *'Building an Effective Drug Policy for Afghanistan'* with Minister of Counter Narcotics Habibullah Qaderi from Kabul, and speakers from German development co-operation (GTZ) and Portugal. One of the issues that sparked debate was the Senlis Council launch of a feasibility study on the licensing of opium production in Afghanistan for the legal production of morphine and other essential medicines.

On Wednesday the 9<sup>th</sup>, the Vienna NGO Committee on Narcotic Drugs held a full day NGO Forum *'To reduce the harmful consequences of drug misuse'* in the big conference hall just below where official proceedings were taking place, easy for official delegates to access. Experiences with harm reduction from Lebanon, Austria, Hungary, Kyrgyzstan, Iran, UK and Italy were discussed in a lively setting.

Thursday another lunch side-event was hosted inside the UN building on *'Law Enforcement, HIV Prevention and the Human Rights of Drug Users'*, sponsored by the Open Society Institute, Human Rights Watch, and the Government of Brazil, with speakers from Brazil, Kyrgyzstan, the HIV/AIDS Legal Network and the European AIDS Treatment Group, and over fifty country delegates participating.

In written form, NGOs were also very present at this CND. Many documents circulated in the corridors. TNI's special Drug Policy Briefing *'The United Nations and Harm Reduction'*, a special Human Rights Watch Brief on the 48<sup>th</sup> CND session, a Position Paper by the new International Drug Policy Consortium, several press releases, etc.

Just prior to the CND, over 200 NGOs and many individuals from more than fifty countries made an urgent appeal to delegates in an open letter: *"As you gather this year to debate HIV/AIDS prevention and drug abuse, we respectfully urge you to support syringe exchange, opiate substitution treatment and other harm reduction approaches demonstrated to reduce HIV risk; to affirm the human rights of drug users to health and health services; and to reject efforts to overrule science and tie the hands of those working on the front lines. No less than the future of the HIV epidemic is at stake."* Leading newspapers devoted editorials to the issues at stake. Taken together, the NGO mobilisation around this CND was remarkable and quite unprecedented, and it had a major impact. The US was clearly uncomfortable with it all and at the most tense point in the negotiations had NGO observers removed from the meeting. After protests, the CND secretariat allowed NGOs access to the Committee of the Whole again, clarifying that only informal drafting committees can be closed off to NGOs at the request of governments.

In his closing remarks, Mr Costa referred back to his opening plea to speak openly and honestly, to not be afraid of debate. *"We need more candour and less UN-speak, less UN-jargon."* He also said that for next year's CND, he *"would like to bring people from around the world to tell their stories, campesinos, former drug dealers and addicts, victims of crime, etc."* Many NGOs present at this meeting will be most willing to help him make that wish come true, and it would certainly make CND discussions worth attending.