



**THE 2015 COMMISSION ON NARCOTIC DRUGS AND
ITS SPECIAL SEGMENT ON PREPARATIONS FOR THE
UNITED NATIONS GENERAL ASSEMBLY SPECIAL
SESSION ON THE WORLD DRUG PROBLEM
REPORT OF PROCEEDINGS**



Executive summary

The international drug control regime is facing the most profound challenge of its existence. Member states have for some time been experimenting with new responses to the 'world drug problem'; however, the advent of legally regulated cannabis markets has resulted in a ratcheting up of these challenges to expose the system to new levels of strain. With the 2016 UN General Assembly Special Session (UNGASS) on the world drug problem fast approaching, how will the international community make use of the opportunity it provides for a free and open debate? This was the question hovering over the 58th session of the Commission on Narcotic Drugs (CND) and its Special Segment on preparations for the UNGASS.

The 58th CND and its UNGASS Special Segment took place between 9th and 17th March 2015. It began with a video presentation from the President of the General Assembly's 69th session, which was followed by welcoming comments from Mr. Yury Fedotov, the Executive Director of the United Nations Office on Drugs and Crime (UNODC). Mr. Fedotov remarked on the 'particular importance' of this year's CND, welcomed the progress that has already been made in the preparations for the 2016 UNGASS. His reference to 'building on the 2009 Political Declaration and Plan of Action and on the Joint Ministerial Statement adopted by the 2014 High Level Review', was to set the tone of the entire event, insofar as discussions tended to be structured by the present thinking of the UN drug control regime. The UN Secretary General's previous call for 'a wide-ranging and open debate that considers all options' appears unlikely to be fulfilled. This aside, the Executive Director's speech was largely uncontroversial.

The opening presentation of the International Narcotics Control Board (INCB) followed suit, with INCB President Dr. Naidoo arguing that the conventions did not require the incarceration of people who use drugs, and that drug control required a balanced approach. He concluded by defending the continuing relevance of the conventions, urging governments to apply them fully and appropriately.

The general debate on the UNGASS preparations likewise reiterated the theme that the conventions

represent the 'cornerstones' of drug control. The statement from Brazil summed up the general position by highlighting that debate on improving policies 'should not be understood as a request to, or an interest in, reviewing the current international legal framework to address the world drug problem'. Even the Latin American countries, which have formed the driving force of the process for change, stopped short of calling for reform of the conventions, except for the representative of Ecuador, who advocated a 'review' of the drug control treaties.

The most strident interventions in this debate came from those states viewing any deviation from the prohibitionist ethos on drug use at the heart of the conventions as a point requiring defence. The African Group were critical of the movement toward decriminalisation and legalisation, believing 'that such misguided policies will hinder the ongoing efforts to combat illicit production, trafficking and abuse of drugs and also the balanced approach which Member States have committed to in the global fight against the world drug problem'. It was a view echoed by an eclectic mix of states, including the Russian Federation, Canada and Pakistan.

Beyond these conflicting views, there were expressions of support from all sides for human rights and access to essential medicines.

The UNGASS debate was organised around a set of 'interactive discussions' replacing the 'round tables' of previous years, as part of an ongoing effort to generate meaningful debate and to move away from an environment where countries simply read out prepared statements describing drug control efforts within their borders and territories. The interactive discussions focused on the following topics:

- supply reduction and related measures; responses to drug-related crime; and countering money-laundering and promoting judicial cooperation ('drugs and crime')
- demand reduction and related measures, including prevention and treatment, as well as health-related issues; and ensuring the availability of controlled substances for medical and scientific purposes, while preventing their diversion

- cross cutting issues: drugs and human rights, youth, women children and communities
- cross-cutting issues: new challenges, threats and realities in preventing and addressing the world drug problem in compliance with relevant international law, including the three international drug control conventions; and strengthening the principle of common and shared responsibility and international cooperation
- alternative development; regional and interregional and international economic cooperation on development-oriented, balanced drug control policy; addressing socioeconomic issues.

These discussions were largely successful, and included considerable expert input from civil society representatives.

Friday 13th March began with a session on 'Changes in the scope of control', which was keenly anticipated following lengthy discussions and disputes for several weeks prior to the CND with regard to China's proposal to place ketamine under international control.

Some 13 substances had been notified to the Secretary General for review and possible international control at the 58th CND. In the resulting decisions, 10 were brought under international control (including mephedrone, considered the first new psychoactive substance [NPS] to be scheduled under the conventions). In the case of two substances it was decided not place them under control owing to their extensive industrial use. This left the instance of

ketamine, which China had first called for scheduling under Schedule I, but reduced its call to Schedule IV owing to the substances medical uses. However, following a strong campaign by civil society and clinicians, supported by various governments, China withdrew, suggesting that consideration of ketamine be postponed, and meanwhile calling for further data from the World Health Organisation (WHO).

At the Committee of the Whole (COW), 11 draft resolutions were debated. Again there were no overtly controversial resolutions, and the proceedings went relatively calmly, with the exception of the resolution around the UNGASS modalities. Much of the negotiating of this hotly debated resolution took place behind closed doors in 'informals', which prevented civil society observers and countries with small delegations from following the process.

Overall, civil society engagement this year was unprecedented; aside from the civil society hearing and the annual informal dialogues with the heads of UNODC and the INCB, civil society representatives attained an effective equal status in terms of their participation in making their Plenary statements. Rather than being tacked at the end as an afterthought or a symbolic concession, speakers were interspersed with government delegates and UN bodies. There were allocated seats for representatives of ECOSOC accredited NGOs, and civil society speakers were assigned to panels. The increasingly meaningful participation of civil society was no doubt one of the most promising developments this year.

Introduction

The international drug control regime is currently facing the most profound challenges of its lifetime, especially since the passage of the 1961 Single Convention on Narcotic Drugs, the foundation of the contemporary treaty framework. In response to increasingly complex, problematic, and in many cases violent drug markets within their borders, a growing number of authorities – at different levels of governance – have continued to move away from the once dominant prohibition and law enforcement-oriented approach to dealing with local, national or regional manifestations of what has become known simply as the ‘world drug problem’. Such a process has been underway for some time, and with it has come an increase in tension between not only member states with different outlooks on various aspects of the issue, but also between different parts of the UN system. Both of these dynamics include the issue of human rights. It was, however, the adoption of legally regulated markets for the recreational use of cannabis within a number of US states and, at the national level, Uruguay in 2013 that shook the very foundations of the international control architecture. Despite increasing discussions around the flexibility within the conventions, and in the case of both Uruguay and the US Federal government designed denial concerning the status of such policies within international law, it is difficult to argue against the view that the very tenets of the regime are under attack and that room for manoeuvre – while considerable – is finite.

The significance of such processes of divergence and the resultant dissonance is of course heightened by the fast approaching UNGASS on the world drug problem in April 2016, an event that it should be recalled was itself rescheduled from its original date of 2019 – ten years after the 2009 Political Declaration – due to the increasing concerns about the inadequacies of some current policy approaches by a number of Latin American states.

It was within this context that delegates met at the Vienna International Centre between 9th and 17th March 2015 to discuss not only the regular business of the CND, but, building upon much endeavour during a series of intersessionals since last year’s Commission, also the preparations for the UNGASS. Such an agenda inevitably raised both

expectations and questions about the forthcoming deliberations. How, for example, would the country delegates and representatives from the UN drug control bodies deal with the issue of regulated cannabis markets? How would discussion on the death penalty and, mindful of China’s on-going efforts to place ketamine under international control, the question of scheduling unfold? And, perhaps most significantly considering it would bring many of these issues together, how would the international community discuss plans for the UNGASS – discussions that were to take place in the face of diplomatic protocol and increasingly desperate attempts to maintain the façade of the so-called but now shattered ‘Vienna consensus’ on drugs. As will be discussed here, there are certainly many positives to be taken from this year’s event. These include a stronger UN institutional position against the use of the death penalty for drug-related offences, improved NGO engagement and more emphasis on access to essential medicines, human rights and health more generally. Yet, despite the presence of what may be considered to be progressive debate, there remains an overwhelming sense of denial about the health of the international system itself. As noted last year,¹ there exists a politically calculated denial designed to give the impression that it is business as usual in Vienna and that, far from experiencing sustained and profound challenge, international drug control is merely undergoing modest renovation within its existing structures. This is a worrying state of affairs at any time, but even more so as the international community approaches UNGASS and with it a rare opportunity to set in motion a substantive review of the treaty system in its current form.

This report aims to provide an overview of what was discussed during the Special Segment on UNGASS preparations and the regular segment of the 58th session of the CND, including during the various side events and NGO dialogues. Going beyond a functional narrative account, it attempts to offer some analysis of prominent debates and discussions, as well as highlight emerging issues of concern and recurring themes. Where appropriate, comparisons are drawn with previous CND sessions in an effort to offer a sense of progress, or otherwise, within specific domains. A supplementary account of the proceedings can be found on the CND Blog, a

project of the International Drug Policy Consortium (IDPC), in collaboration with the International Association for Hospice & Palliative Care, Release and the Canadian Students for Sensible Drug Policies, which aims to ensure transparency and provide timely records of the discussions taking place at the meeting (www.cndblog.org and www.cndblogspanish.org). Official UN documentation relating to both the Special Segment and the CND session proper, including the official report of proceedings, can be found at:

www.unodc.org/unodc/en/commissions/CND/session/58_Session_2015/CND-58-Session_Index.html

The opening of the 58th session of the CND and its Special Segment on UNGASS preparations

The 58th session of the Commission and its ‘Special Segment on UNGASS preparations’ on Monday 9th March began with a video address from New York City by the President of the General Assembly’s 69th session. H.E. Sam Kahamba Kutesa welcomed the preparatory work underway in the lead up to the UNGASS and presaging what was to be a recurring theme of an extraordinary long opening day, noted that the UN drug control treaties were the ‘cornerstones’ of international endeavour within this issue area. The President’s message was followed by welcoming comments from Mr. Yuri Fedotov, the Executive Director of UNODC, who was tasked with the formal opening of the meeting. Mr. Fedotov remarked on the ‘particular importance’ of this year’s CND, and – echoing H.E. Kahamba Kutesa – welcomed the progress that has already been made in the preparations for the 2016 UNGASS.² The reference in this context to ‘building on the 2009 Political Declaration and Plan of Action and on the Joint Ministerial Statement adopted by the 2014 High Level Review’, while probably inevitable, was perhaps rather unwelcome. Hopes are held by large sections of civil society and some member states that the UNGASS process will represent a genuinely open discussion, with no policy options excluded from consideration, rather than a re-run of the events and outcomes of five years ago. Linking the preparations to these previous drug control formulations, which largely reprised the orthodoxy, albeit with some significant new emphases, does

not encourage such aspirations. It remains to be seen whether the UNGASS will take the UN Secretary General at his word when he calls for it ‘to conduct a wide-ranging and open debate that considers all options.’³ However, as we discuss over the course of this report, this is unfortunately looking increasingly unlikely. Following further remarks on the process of preparation for the Special Session – including a recognition of the many tasks that lie ahead, and the CND’s reliance on ‘the active and constructive involvement of all Member States’ – Mr. Fedotov then turned to consider other aspects of the 58th CND.

The Executive Director listed the draft resolutions to be considered by member states, and referred to the large number of side events at this year’s Commission, which he regarded as ‘evidence of the commitment of the Commission and all Member States to provide a forum for diverse perspectives’. He then said specifically that he was looking forward to the involvement of civil society and the scientific community during this year’s CND. It would be churlish to deny the considerable progress made toward making this Commission an event that welcomes actual debate, and the respectful discussion of points of view which run counter to one another. Within recent memory, the Commission was too often a format for the recitation of orthodox themes and opinions, and a place in which dissidence was very tangibly frozen out of the discussion. As described below, while there remains a long way to go, it is difficult to argue that this characterisation holds at the 2015 CND; and for this, some portion of the credit must surely go to Mr. Fedotov.

Mr. Fedotov’s opening speech continued, furthermore, without any overtly controversial content. Again, it is easy to forget that it is only a few short years since the Executive Director’s opening remarks – whoever the individual holding the office – reflected a deeply orthodox and partisan position on drug control, often combined with hostility toward civil society engagement. It was apparent too that a considerable disconnect existed between the scientific and research work of UNODC and those who appeared as its public face. This was particularly the case at flagship events such as the opening of the CND. These occasions were regularly employed to attack the lifestyles of musicians, models and others in the entertainment

industry who used drugs recreationally, and to criticise those civil society organisations who advocated for the legal regulation of drugs or, at least, the deployment of a different style of drug control centred on health and human rights.

Delegates at this year's CND were instead witness to a more technocratic, pragmatic handling of the opening speech, which contributed toward setting the tone of the Commission. This does not, of course, mean that there are no longer any differences of opinion between IDPC and the agencies representing the UN drug control architecture. But it bodes well for the UNGASS preparations when the introduction is generally cooperative in tone. It remains to be seen how far that tone filters down from the towers of Vienna into the trenches of a drug war, which, lest we forget, continues to be waged around much of the world. But there has been movement, and we should surely acknowledge and welcome it.

A more cooperative and constructive tone was also noticeable within the statement from Dr. Lochan Naidoo, President of the INCB. This, while undoubtedly problematic in some respects, was far less belligerent than INCB statements in previous years. He began by pointing out that the 'UNGASS provides an opportunity to re-think what we have been doing over the last 50 years' and went on to note that 'The world has changed, and the world of drug policy has also evolved' and, in setting up what is essentially a false dichotomy and largely missing the point regarding calls for treaty reform, asked 'But have the objectives of the drug treaties, which are to ensure the health and welfare of our populations, really become outdated?' His answer was 'I don't think so'; a position that, while disagreeing on how to achieve those goals, most within the drug policy community would endorse. The rest of his statement was based around the ideas that most policy changes can be achieved within the existing framework and that 'little actually divides us on fundamental issues'. In this context, he stressed the importance of the 'health and welfare' of humankind within the treaties and flagged up the importance of access to essential medicines and the significant role played by socio-economic factors on both the supply and demand side of the drug problem. Dr. Naidoo also emphasised that 'Nothing in the Conventions requires States to incarcerate drug users' – essentially offering a green light for

decriminalisation – and that 'Drug-related policies and strategies must reflect due regard to human rights'. On the latter point, the Board's opposition to capital punishment for drug-related offences was most welcome.

Continuing in his style of posing rhetorical questions in order to offer what are clearly intended to be sagely and expert answers, Dr. Naidoo also asked, 'So what is the future?' On this he argued that 'perhaps the only point of dissent is how exactly to resolve the problems' and in relation to the current debate around cannabis posed a series of questions: 'Is the regulation of a legal drug market for non-medical use a real solution? Would it work? Would it eliminate crime and secondary black markets?' Seemingly ignoring the processes behind the development of policy across a spectrum of issues with transnational features, Dr. Naidoo then argued that 'Any future approach cannot be based on individual experiments or regionally-based approaches, for the world is interconnected and interdependent'. Furthermore, without reference to approaches such as harm reduction and decriminalisation, neither of which are universally adopted but began as locally-based approaches or experiments and are now widely accepted, he claimed that: 'Importantly such approaches would be contrary to and undermine the principles of common and shared responsibility and concerted action by the international community'. Focusing more directly on those states operating or considering regulated markets, presumably for cannabis, Dr. Naidoo also asked, '...will your Government bear the cost and responsibility of an enlarged abuse and addiction problem and any other negative health and social consequences that may arise? The experience with alcohol and tobacco should act as cautionary tales rather than as regulatory models'.

Having made a number of valid points about demand side strategies and the importance of 'appropriate and balanced' supply reduction measures, Dr. Naidoo finished his statement with a flourish in defence of the conventions. 'The drug control treaties are not out-dated; neither irrelevant nor inapplicable', he said. Moreover, he continued perhaps unwisely comparing the conventions with human rights-focused instruments, 'Like the Charter of the United Nations and the Universal declaration of Human Rights, the drug control treaties have stood the test of time and remain valid and relevant

today'. Rather than looking to review the treaties, Dr. Naidoo argued, 'What needs revalidating is the commitment of States towards the full application of the treaties. Governments need to devote the required resources to all aspects of the world drug problem and not to narrow areas, sometimes for reasons of expediency'.

'International cooperation, solidarity, common and shared responsibility and concerted international action', he continued 'must remain at the centre of tackling the world drug problem together'. 'Go-it-alone strategies', presumably like those in Uruguay and within the USA, 'will only undermine the common and collective good of the international community', he claimed. Finally, having lectured the member states on what they should or should not do – even in the face of democratic processes – the President of the INCB finished by stating 'once again that the future of drug control is in your hands, in the hands of governments. Governments have a responsibility toward their citizens and, individually and collectively, towards the whole international community. Let us all be up to the challenge, and assume and act on our responsibilities'.

The general debate on the UNGASS 2016

As this Report of proceedings shows, in the face of significant and varied policy failures at different levels of governance, there clearly are a number of diverging perspectives on a range of issues among member states and how they approach what Dr. Naidoo framed as 'challenges' and 'responsibilities'. Nonetheless support for – or at least an ostensibly uncritical stance on – the treaties remained a dominant theme of the entire session, with their representation as the sacred 'cornerstones' of international endeavour sprinkled liberally within opening statements and other interventions. To be sure, the majority of states proclaimed support for shared responsibility and a balanced and multidisciplinary approach to drug control and viewed the UNGASS as an opportunity for a review of progress *within* the framework of the existing treaties. The statement from Brazil summed up the general position by highlighting that debate on improving policies 'should not be understood as a request to, or an interest in, reviewing the current international legal framework to address the world drug problem'.

And this was more or less the stance for all the regional and UN groups that gave statements (G-77, Africa Group, Asia Pacific group and the European Union) and most individual states. Some statements, notably those of the EU, the Netherlands and Brazil, stressed that there was flexibility within the conventions to allow for non-prohibition-oriented policies, including, stressed the EU, the pursuit of the health-oriented harm reduction approach. This was a position echoed by the Netherlands, with the Dutch representative also stating that the country 'strongly advocates decriminalising drug use'. Yet, while coming close to a call for radical change, and being critical of the existing international approach, no nation or grouping made a direct and open challenge to the current treaties. This included the Latin American states that had done so much to shift the date of the UNGASS to 2016 from the planned date three years later (see Box 1). This was perhaps the understandable product of a desire among many states to get through the UNGASS next year with the minimum of fuss and diplomatic friction. In the case of Uruguay, this desire was flexible, and if the debate was to develop in the direction of treaty reform, it is likely that Uruguay would engage positively with such a process. It is true that there was a widespread view that, as the EU statement put it, outcomes of the UNGASS should not be a 'replica' of the 2009 Political Declaration and that there was a 'need to discuss challenges that remain and possible solutions that respond to the evolving nature of the problem'. The German statement echoed this but, giving the discussion even more contemporary relevance, noted that the UNGASS must not be 2014 all over again.

However, in light of clearly different views of the 'challenges', 'solutions' and even the 'nature of the problem' it remains unclear how the continuing and emergent divisions within the international community will play out at the UNGASS. Even in light of multiple calls for more civil society involvement, the inclusion of other UN agencies within the debate and, as the Mexican statement stressed, 'a broad, open and inclusive debate... *without preconceptions of any kind*' (emphasis added), it is difficult after this year's CND and Special Segment to see how the UNGASS will unfold to be anything other than a high-level re-run of past events. Despite the INCB's suggestions to the contrary (see discussion above), the adoption of legally regulated markets for cannabis by some

Box 1 Almost critical: Disparate but challenging views from Colombia and other Latin American states

While Latin American countries have played a very important role in promoting the international drug policy debate, they remain divided on key issues. This point became painfully clear when GRULAC (the group of Latin American and Caribbean countries) was unable to agree on a joint statement at the opening of the 2015 Special Segment. Yet Colombian Justice Minister, Dr. Yesid Reyes, the first to give a country statement, set the tone for those countries – within Latin America and beyond – seeking a wide-ranging debate at the 2016 UNGASS, emphasizing the failure of present policies to achieve the desired results and the need to debate new and more effective approaches.¹

Minister Reyes reflected on the lessons learned to-date that should frame the UNGASS debate. He pointed to the reliance on over-incarceration and called for redirecting penal law against the leaders of criminal organisations and adopting alternatives to incarceration for those who become involved in drug trafficking due to ‘gender, social exclusion or drug dependency’, including drug couriers and small-scale dealers. He also called for treating drug use as a public health issue and expressed the government’s commitment to promoting a regulated medical cannabis market. In addition, he underscored the importance of giving countries the flexibility to implement policies best suited to their own realities.

While the Colombian government has yet to put into practice at home what it preaches abroad, it has certainly challenged the international community to move beyond the political grandstanding that often characterises the CND and engage in substantive debate at the 2016 UNGASS. As Minister Reyes concluded: ‘If we don’t ensure that the 2016 UNGASS is an apt vehicle for humanizing present drug policy, we will go down in history for our incapacity to adapt to the changing realities of a drug market that has itself demonstrated its capacity to continually mutate in response to our challenges’.

This was a view in many ways echoed in the Argentinean statement,⁵ which called into

question the ‘convictions of present day drug control’ and pointed out the urgent need to deal with problems rather than the ‘paragraphs and grammar’ debated at the CND. Referring to Albert Einstein’s definition of insanity, the representative from Argentina also noted the futility of doing the same thing over and over again and expecting different results. This was a point repeated in the Mexican statement,⁶ which went on to stress that in light of the view that the global system had not produced the expected results ‘We must work together to better comprehend the new dynamics of the illicit drug market, and to seek the best ways to tackle it, while avoiding the related social harm’. However, in continuing a cautious line deployed in other forums, the representative from Mexico noted that ‘Any unilateral action clearly carries transnational effects’ and consequently argued that ‘We must jointly agree on lines for future action that lead to a more humane and balanced implementation of the current framework’.

The representative from Ecuador⁷ also acknowledged that the policies of past 50 years had been ‘ineffective and damaging’ and, going further than any other state at this year’s CND, stated the belief that there was a need to ‘review the current conventions’ and to ‘respect the sovereignty and the reality of nations and their cultures’. It was also suggested that there is a need to ‘focus on human beings rather than substances’, as well as to establish ‘multidisciplinary working groups’ including academics, civil society organisations and NGOs to participate in the preparations leading to the 2016 UNGASS. Reflecting a somewhat isolated stance within the region since the country withdrew from the 1961 Single Convention on Narcotic Drugs and re-acceded with a reservation on coca in 2013, Bolivia used its statement to stress that its coca leaf policy should not be held up as a ‘model’ for anywhere else in the world. Further illustrating the complex viewpoints within the region, Mr. Moldiz Mercado concluded that ‘We do want to work toward a world without drugs’, but ‘one that is multipolar and where common notions can be agreed without pressure from others’.

countries and subnational units within them is not the only point of contestation and disagreement. Nonetheless, how far states will go to push for their preferred policy approaches in New York next year that depart too far from the traditional interpretation of the conventions remains open to question.

To be sure, the most strident statements of the day came from those states viewing any deviation from the prohibitionist ethos on drug use at the heart of the conventions as a point of great anxiety requiring defensive action. For example, the Africa Group noted ‘with grave concern the calls for the legalization and decriminalization of certain drugs in some parts of the world.’⁸ ‘It is the view of the Africa Group’, it was stressed, ‘that such misguided policies will hinder the ongoing efforts to combat illicit production, trafficking and abuse of drugs and also the balanced approach which Member States have committed to in the global fight against the world drug problem’. This was a view echoed by an eclectic mix of states, including the Russian Federation, Canada and Pakistan. Speaking in terms of the quest towards a ‘drug-free world’, the Russian speaker⁹ launched an energetic defence of the conventions, arguing that they were not out of date or ‘obsolete’, but in fact represented a ‘common legal basis’ that provides the base for ‘devising a common solution to the drugs problem’. ‘If we take an axe to the toolkit’, it was suggested, it will be a ‘global disaster’, with the regrettable ‘trend towards legalisation’ presenting a move towards a ‘narcotics abyss that could swallow up our youth’. In response, it was argued, ‘The CND and UNODC must challenge this form of ideology in whatever form it takes’, with the speaker commending the INCB and its recommendations to strengthen the conventions. In a more measured tone, the Canadian statement presented a similar perspective noting that ‘there are no easy solutions to the world drug problem’ and that, ‘As we look toward UNGASS 2016, Canada is concerned that calls for decriminalization or legalization of illicit drugs underestimates the resilience of organized crime, and downplays the significant harm that these drugs do to individuals, families, and communities.’¹⁰

The speaker from Pakistan repeated analogous arguments, noting ‘The recently emerging trend of legalization of illicit drugs remains a matter of deep concern. Legalizing illicit drugs would neither ensure the cessation of underground drug markets nor

Box 2 Into the breach: the USA and Uruguay

Considering the awkward position that both the USA and Uruguay find themselves in relation to their treaty obligations, it is perhaps no surprise that statements from both countries made little direct reference to legally regulated cannabis markets within their borders. Indeed, speaking in general terms Ambassador Brownfield¹³ stressed that ‘It is important to maintain a balance between recognizing achievements and shortcomings. Constructive criticism drives progress, but it shouldn’t descend into cynicism, inhibit progress or blind us into what is effective’. He then went on to note that ‘In the spirit of “common and shared responsibility,” the UNGASS should endorse tangible, operational measures’ and, in a veiled reference to the 4-pillar approach he put forward last year to justify the US position,¹⁴ argued that ‘We can do so within the framework of the three UN drug control conventions, which have evolved over time to adapt to new challenges and permit options for states.’

Although less oblique, the Uruguayan statement¹⁵ also did not dwell on the issue. Within the context of calls for a ‘realistic and critical reappraisal of international drug policy’ and the need ‘to find courage to find a different way’, Mr. Romani observed that ‘Uruguay seems to be in the news’ regarding cannabis. He then made the claim that ‘regulating markets is a consistent method; it protects public health and drug trafficking is thereby undermined’, but, much like the Bolivians in relation to coca, stressed that ‘We are not in a position to promote this for everyone, but we are defending our sovereign right.’ It is interesting to note that the only other direct reference to the issue was from the OAS. Referring to ‘policy adjustments’, its statement noted in a very measured way that ‘within our regional drug commission, we continue to have lively, informed and respectful debate on the cannabis issue.’

counter the daunting challenge of increasing drug demand. This trend also undermines the true spirit of the three International Drug Control Conventions'. He went further, however, in criticising what for many member states, regional groups and – for the most part – the UN system is now an uncontroversial set of health-oriented interventions. 'There are also emerging challenges posed by such controversial concepts and approaches as "Harm Reduction" that require our focused attention', said the delegate. He went on to stress that 'Any and all initiatives and measures that aggravate Drug Dependence are not helpful' and stated that his delegation wanted to 'take this opportunity to state in unequivocal terms that any attempt to review the three International Drug Control Conventions is neither useful nor productive'.¹¹

Beyond illustrating the ongoing, if admittedly greatly reduced, existence of disagreement about harm reduction, the statement from Pakistan also revealed that there remain significant tensions and interpretative dissonance around the issue of human rights and drug policy, including in relation to the death penalty. Indeed, along with support for the drug control conventions, another key recurring theme across the Special Segment statements was the centrality of human rights to all drug control efforts. Most statements included words to this effect, with some states explicitly noting that the use of the death penalty for drug-related offences was in contravention of UN principles and should be banned. This was an especially poignant topic bearing in mind those on death row in Indonesia during the time of the CND session. Yet, although not directly relating to the issue, the Pakistani statement's caution concerning 'respect for the principles of territorial integrity of States' and that 'non-intervention in the internal affairs of States should remain the cornerstone of our cooperation to counter the world drug problem' reflected deep seated, and perhaps irreconcilable, differences on the issue.

The Chinese statement¹² best, or worst, reflected this. In expressing full support for the treaties, the speaker stressed that 'China would also like to point out that the three conventions have clearly provided that in terms of punishment for the drug related crimes, states have the right to freely determine the appropriate punishment in line with the principle of proportionality, which is a principle

based on the rule of law and *protection of human rights*' (emphasis added). He went on to note that 'In the discussions during the preparatory process, this sovereign right should be fully respected and any proposals aimed at negating or weakening this right will not be deemed appropriate and neither UNGASS nor its preparatory process should be a proper venue for re-opening debate on this issue'. Indeed, it is worth noting that when countries like Russia and China – in terms of the latter within the context of the G-77 and China as well as individual country statements – begin to frame their policies in terms of human rights, it is obvious that apparent top line agreement on the concept is not all that it might first appear.

Much the same can be said for the issue of access to essential medicines. Very much related to the issue of human rights, and the frequent mentions of the need to place health at the centre of international drug policy, many statements stressed the importance of ensuring access to medicines controlled by the drug control treaties. However, once again, a closer comparison of the statements of support reveals that exactly what was meant by 'access' greatly differed. This was most obvious in relation to ketamine. As will be discussed in detail below, this year's CND saw the Chinese government initiate a move to put the drug under international control. In anticipation of the debate later in the week, many countries used their opening statements on the first day of the Special Segment to indicate their support for, or opposition to, bringing ketamine under international control. In urging for control, some states openly challenged the role of the WHO in the scheduling process. For example, the Africa Group, pointing out that it was worried about the availability of pain relieving drugs but stressing that 'abuse' of both ketamine and tramadol was a 'huge challenge across' the continent, noted with 'regret that the report of the WHO expert Committee on Drug Dependence... concludes that the international control of ketamine is not really necessary at present'.¹⁶

All that said, it would be unfair to conclude that the opening day was entirely characterised by disagreement and tension. Many states, for example, shared a concern for the rise of NPS. This was an issue that led the New Zealand representative to note in reference to the innovative legislation within the country that 'global one-size-fits-all

approaches are no longer the responses they once were'; a belief that is arguably pertinent beyond NPS.¹⁷ Additionally, there was a common desire to give more attention to the issue of alternative development (AD); a position especially strongly espoused by Germany¹⁸ and some Latin American states. Nevertheless, as with the overarching concept of human rights, what each state actually understood to be AD is likely to differ. For example, do Berlin and Moscow really have a shared view of what AD entails or aims for? This seems unlikely with the Russian Federation seeing AD as part of a non-punitive, yet 'fast track', route to a 'drug-free world'. Indeed, despite diplomatically appropriate efforts to demonstrate some sort of unity, the fractured consensus that characterises the current operation of the CND was not too far beneath the surface.

Interactive discussions: A largely successful formula

Following practice of the past four years, either at the CND proper or at the High Level Segment, this year's Special Segment devoted considerable time to the round-table format, this time rebranded 'Interactive Discussions', if nothing else an appropriate title simply in terms of the venue within the main plenary hall, itself symbolic of the importance given to the sessions. This was part of an ongoing effort to generate meaningful debate and to move away from an environment where countries simply read out staid prepared statements describing drug control efforts within their borders and territories. While this practice was not eliminated completely, the format did generate an impressive amount of interactive discussion over the course of five sessions running across Tuesday, Wednesday and Thursday morning (March 10-12th), including, as we shall see, unprecedented levels of civil society engagement.

Interactive discussions on supply reduction and related measures; responses to drug related crime; and countering money-laundering and promoting judicial cooperation ('drugs and crime') (b)¹⁹

Reza Najafi (Iran) presided over this first interactive discussion, which began with an introduction to the issue from the UNODC Secretariat. This was followed

by presentations from five panellists – Evika Silina (Latvia, nominated by the European Group), Rashni Verma (India, for the Asia Group) Markel Ivan Mora (Panama, the Latin American nomination), Paul Griffiths (European Monitoring Centre for Drugs and Drug Addiction, the Western Europe and Others Group nomination) and Ross Bell (New Zealand Drug Policy Foundation, the Civil Society Task Force [CSTF] nomination) – before being opened up to the floor. In addition to the involvement of the New Zealand Drug Policy Foundation on the panel, the session also included a number of NGO statements with Centro de Estudios Legales y Sociales (CELS), Active: Society, Friendship and Peace, IDPC, Reprieve and the Transnational Institute (TNI) being given equal weight to member states within the deliberations.

Overall, there was agreement amongst the panellists and those country and NGO representatives engaging from the floor that there is no single approach to dealing with 'the drug problem' and, in the mood of broader discussions, that a balanced and sustainable effort at the international level is needed to produce the required results. Some speakers emphasised the need to strengthen law enforcement cooperation at regional and international levels, including in terms of cross-border cooperation and judicial cooperation. It was also noted by some of those contributing to the session that AD activities had produced good results at the international level, especially where based on principles of shared responsibility. On this point, the importance of addressing the challenges faced by farmers after the eradication of drug crops was highlighted, as was the need to focus on the root causes of criminality linked to the manufacture and trafficking of drugs. As Evika Silina noted, law enforcement 'only addresses the consequences of the drug issue' – a point that linked to general agreement that there remains a need to strengthen development in source and transit states.

The discussion also covered sentencing reform and the need for proportionality of punishment and some speakers here, notably the representatives from Latvia and the NGO Reprieve, affirmed opposition to the use of the death penalty for drug-related offences. Speaking from the floor, a US representative highlighted the new 'smart on crime' approach within that country, which includes the reduction of mandatory minimum sentences for some drug offences, and offered to share best practice.

It was also noteworthy that Ross Bell and Evika Silina, as well as IDPC's Chair Mike Trace speaking from the floor, noted that traditional supply reduction performance indicators for law enforcement (e.g. quantities seized and the number of arrests) were increasingly inadequate in addressing the complex nature of the drug market. Suggestions were made that additional indicators, including not only tracking financial flows but also measuring the impact of drug control activities, should be considered. According to Ms. Silina the current indicators were an outmoded 'approach of the last century', with Ross Bell stressing the need to move away from process indicators towards the measurement of the impact of policies. That said, as an ironic counterpoint to these thoughtful positions, statements from a series of states, including Mr. Mora and Georgia, Algeria and Indonesia from the floor, contained long lists of seizure data no doubt designed to reflect national authorities' commitment to drug control.

A number of speakers noted a connection between drug trafficking and other forms of organised crime, including terrorism, although others said this was not a global phenomenon. Related to this – and despite Norway's concern for cybercrime and general calls for capacity building to counter the trend – there was surprisingly little attention given to the internet, and no mention of Dark Net and its use by organised criminal groups for drug trafficking. That said, Paul Griffiths made a very important point when he noted that there is now a better understanding of what policies work and what does not work, but that technology (including the internet) is changing the nature of the market. As such, he believed that there are 'some grounds for optimism', but the 'environment is becoming more challenging and complex'.

In this regard, a common theme of the discussion was the growing threat of NPS, with a number of contributions (e.g. Australia, UK, USA, Israel, Cuba, India and Brazil) stressing the need for international cooperation in the lead up to the UNGASS. On this issue representatives highlighted the importance of information sharing, the technical ability to identify new substances and prioritising measures against the most harmful among them. One suggestion was that this could be addressed through a provisional scheduling of substances and scheduling based on similarity principle. Ross Bell also urged for a

shift away from traditional approaches and the consideration of new ones, including the New Zealand model.

In response to discussions about emerging 'threats' such as NPS and the internet, the representative from Panama asked the panellists a timely, but within the context of the entire CND, rare question. Mindful of the approaching UNGASS 'has there been consideration of revising the treaties in relation to these new threats?' he enquired. While most speakers stated their belief that there is a need to work towards innovative approaches *inside* the conventions, Ross Bell highlighted the very real tensions between the treaties and regulated cannabis markets and called for the creation of a high-level group to look at this issue within the UNGASS process, a position that IDPC fully supports.²⁰

Interactive Discussion on demand reduction and related measures, including prevention and treatment, as well as health-related issues; and ensuring the availability of controlled substances for medical and scientific purposes, while preventing their diversion (a)²¹

The interactive discussion on demand reduction and related measures included a broad set of issues coming under the broad topic of 'drugs and health'. The session was chaired by the Portuguese ambassador and included a panel of speakers made up of Tawfik Zid (Tunisia, representing the African group), Jose Marlowe S. Pedregosa (Philippines, representing the Asian group), Jože Hren (Slovenia, representing the Western Europe and Others Group), Roberto Campa (Mexico, representing the Latin American and Caribbean states), Michael Botticelli (USA), Dr. Lochan Naidoo (INCB), Shekhar Saxena (WHO) and Diederik Lohman (Human Rights Watch, HRW).

Gilberto Gerra from UNODC was the first to speak. He presented a robust defence of the rights of people who use drugs and those living with HIV to treatment based on scientific evidence, and contrasted this with the present reality, in which both treatment and prevention are often not evidence based. Nora Volkow, director of the US National Institute of Drug Abuse (NIDA), also called

for an end to stigmatisation. Her presentation was based upon the NIDA model that ‘addiction’ is a ‘brain disease’, a way of thinking about drug use that was contrasted with morally-based models that lead to stigmatisation. It was a theme largely reiterated by Michael Botticelli, Director of the White House Office of National Drug Control Policy (ONDCP), who believed that ‘Substance Use Disorder is a medical condition, like heart disease’. All of these interventions were no doubt well-intentioned, though the ‘brain-disease’ model of drug use and dependence has met with considerable scepticism in Europe, as exemplified by various interventions from the floor. It is worth noting here that the primary problem with this model is that it tends to individualise the issue: if there is something wrong with somebody’s brain (albeit though some room is given to ‘environmental factors’), there is little need to give serious consideration to questions of historical, cultural, social, political and economic context.²² The focus on an alleged ‘brain disease’ is additionally at risk of inviting the type of response that continues on occasion to be heard from the Russian Federation, with the ‘solution’ to drug use being sought in psycho-surgery.

Moreover, the majority of those using drugs do not, in fact, encounter serious problems and do not require the treatment, support, care and reintegration on offer. When these types of interventions are unlooked-for and imposed by states, there is the very real danger that they are simply being deployed to enforce social conformity. Nonetheless, with that said, it is undoubtedly a welcome development for those who do get into trouble with their drug use to receive care and support rather than harshness and criminalisation. IDPC supports this approach; our concern is that those advocating the brain disease model, while well-meaning, do not appear fully aware of the risks inherent in this form of understanding or, we would argue, the extent to which ‘addiction’ is a socially constructed category involving complex social and cultural questions that neurology does not address.

The speakers representing the African and Asian groups respectively concentrated on prevention, with the latter giving considerable space to the carrying out of randomised drug testing on the population of the Philippines in school, the workplace etc. The Slovenian panellist told the story

of his country’s drug demand reduction responses, which, by contrast, included decriminalisation and harm reduction measures alongside prevention.

Another important area of the discussion raised by some of the panellists was the lack of access to controlled drugs for medical and scientific purposes. These included the INCB, Mexico, alongside a truly striking presentation from the civil society representative Diederik Lohman of HRW. His intervention was based upon four proposals: the first dealing with improved access to drugs for medical purposes, the second with evidence-based drug policies, the third with the closer engagement of other UN agencies in drug control policy making and decisions, and the fourth within the setting of ambitious and realistic targets and indicators. He argued that agencies such as the WHO and UNAIDS need a ‘seat at the policy table’.

‘How can CND expect to effectively deal with the health matters when the lead UN agencies on health have to sit at the back of the room and cannot make an opening statement?’ he asked. At this point, a number of delegates’ heads turned toward the back of the auditorium, where WHO officials sat in the back row, blushing brightly. The speaker had brought into view a hierarchy of policy priorities that was inscribed in the very seating arrangements of the CND. The essential point was that under current arrangements, and despite the rhetoric of health, the health agencies ride at the back of the bus (see Box 3).

The UNAIDS statement noted that the challenge for governments in addressing HIV lies in the fact that drug control is largely focused on law enforcement, while HIV is very much a health issue. It argued that public health remains the ‘missing link’ in the current approach to drugs.

As the first speaker from the floor, Australia echoed concerns over the global disparity in access to pain medication, a point seconded by the UK. Iran then provided some perhaps unexpected support for harm reduction measures, 90 per cent of which in that country are provided by civil society. As a result of their efforts, he explained, HIV prevalence has decreased from 25 per cent to 9 per cent over 10 years. Iran then called for the CND to support harm reduction and treatment in all countries. Japan countered by insisting that drug demand

Box 3 The WHO: Less marginalised, but still a long way to go

Analysis reveals that WHO participation at this year's CND was qualitatively different from previous years, revealing an improvement in the level of engagement between this organisation and other parts of the drug control apparatus. This shift represents an absolute necessity during a period when the centrality of health is quite rightly being elevated within discussions of international drug control policy. In terms of proactive WHO engagement, nine full-time staff attended, constituting the largest delegation in recent memory. The WHO delegation was headed at Assistant Director-General (ADG) level by Dr. Chestnov, and was given many opportunities to intervene from the floor. Indeed, WHO delegates intervened and participated in many sessions, and presented a statement for the Special Session prepared by multiple departments. Furthermore, WHO staff members were panelists in four side events, and co-organised several.

The ADG took part in a session entitled 'Every person counts' at a lunchtime side event that presented the WHO vision for drugs and health. Dr. Chestnov also signed an agreement with UNODC for a joint programme on drug-related problems. Statements from the floor revealed congruence between the positions of member states, civil society, and researchers on the

health dimensions of drug policy, indicating an unprecedented degree of convergence. On this point, it is worth noting that five resolutions explicitly mentioned the WHO, requesting ongoing consultation, technical expertise, or implementation and coordination.

In terms of informal engagement, the WHO table displaying official documents allowed staff to interact with delegations requesting more information on specific issues. According to the person staffing the table, 95 per cent of comments about providing such a space for dialogue and advice were positive.

Finally, that the WHO was on the podium during the last session, rather than the back benches, is a minor – yet in terms of CND protocol, quite significant – indication that health priorities are slowly being brought to the fore. Based upon the level of interaction at this year's Commission it seems likely that member states will expect more participation from the WHO as we move towards the 2016 UNGASS and beyond. However, as IDPC has had reason to highlight elsewhere, increased WHO participation will require appropriate levels of funding and member states must be prepared to resource the WHO in order to allow it to fulfill its vital role within the drug control framework.

reduction measures – especially harm reduction – were not suited to all nations. Japan's intervention demonstrates once again that a shared rhetorical commitment to health does not necessarily result in support for the concrete measures needed to bring about health.

A mix of government and civil society delegates then continued the debate, speaking from a range of policy perspectives, until the panellists were invited to respond prior to the close of the session. On the issue of access to controlled drugs for medical and scientific purposes, Australia had asked the HRW speaker what steps states can collectively take in order to improve access. Once more, HRW stated the problem succinctly: '...as long as the issue of essential medicines is folded

into demand reduction, space for that discussion will not exist'.

Interactive discussion on cross cutting issues: drugs and human rights, youth, women children and communities (c)²³

The next session of interactive discussions focused cross-cutting issues, with a specific focus on drugs and human rights, and some of the key specific populations affected by drugs and drug policies. It was chaired by Károly Dán of Hungary, and featured the following panellists: Ahmed Alfares of Saudia Arabia, representing the Asian Group Juan Carlos Molina of Argentina, representing GRULAC, Ruth Dreifuss of Switzerland representing the Western Europe and Others Group and Kristina Sperkova of

the International Organisation of Good Templars (IOGT International), representing civil society.

The discussions were opened by UNODC, the speaker stating that the Office has concluded that matters such as HIV, HCV and overdose are public health issues that can be successfully addressed by healthcare interventions. The challenge, it was argued, lay in translating the right to the enjoyment of health into practices that work on the ground; obstacles must be overcome in order for this to take place. Public health and evidence-based practice is much more cost-effective than a punitive approach, added the speaker, pointing out that there is an urgent requirement for alternatives to incarceration, and that prisons are currently crowded with low-level offenders, particularly women. Punitive approaches and stigma obstruct access to effective healthcare options; this is especially alarming in the case of children, who need to be channelled into child healthcare systems rather than prisons, he concluded.

The Saudi Arabian panellist then spoke, championing the independence and integrity of the Saudi criminal justice apparatus, which, it was claimed, is able to divert women and children toward healthcare and treatment where appropriate, such as in cases where 'youth fall prey to drugs'. The increase in amphetamine-type stimulants and NPS are the main challenges facing Saudi youth, and international cooperation is needed, he said, in order to defend society.

The Argentinean panellist informed delegates how far Latin America has progressed in terms of infusing the drug control system with protection for human rights. Drug control has produced many unwanted side-effects, it was stressed, and Argentina has responded by 'tackling the problem from a people-centred approach, with dignity, wellbeing, health, education, and work strengthening the social fabric'. Argentina welcomes 'the existence of new viewpoints and approaches that attempt to deal with realities', the speaker concluded.

Ruth Dreifuss, the former Swiss President and member of the Global Commission on Drug Policy, spoke next from the panel, calling the UN Declaration on Human Rights 'the cornerstone of international law'. She noted that the recognition

that a 'drug-free world' was a dream and a fantasy 'has pushed us to try and respect human rights'. Welcoming this development, she also noted a reverse trend, a dark side of the new situation to which some states have responded by increased repression, such as the use of the death penalty. Ms. Dreifuss described the inadequate access to pain medications as a facet of the repressive orientation toward the use of drugs, and argued that proper access to medicines is part of the right to health. She concluded by considering children and young people, and called for harm reduction services to be made available to those youth in need of them.

The final panel speaker was from the IOGT, who told delegates that her basic premise was that 'social problems cannot be solved by military means'. She called for the international community to avoid further polarising debates and to make use of the flexible potentials available in the international drug control conventions. She called for policies to protect children from drug use, and for the achievement of a 'drug-free society'. Human rights were needed for all, said Ms. Sperkova, but went on to say that 95 per cent of the world population does not use drugs, and that 'the rights of the silent majority must be protected'. It was her view that drug prevention represents 'the most cost-effective, the most sustainable, most humane, and most people-empowering' response.

If further demonstration were necessary, this intervention showed that, while calls for human rights may seem eminently reasonable and progressive, there is a very wide range of meanings associated with the use of term, both by states (as discussed above) and by civil society groups. The IOGT interpretation of the discourse of human rights was reminiscent of a statement made in an earlier CND side event, in which a former diplomat defended the use of executions by reference to human rights language. His argument was that: 'The death penalty for a few traffickers defends the human right to life of the millions who make up his victims.'²⁴

Speaking for IDPC, Marie Nougier addressed the problematic consequences of enforcement-led drug control for women. Focusing predominantly on Latin America, she detailed the alarmingly high levels of women incarcerated for minor, non-violent drug-related crimes. These women are,

moreover, often living in poverty and lacking formal education, resorting to the drugs trade as a means of economic survival. Imprisonment confers on these women a multiple stigmatisation. She called on governments in the region to deploy prison as a last resort, and to replace custodial sentences with policies intended to reduce the poverty and lack of security that drives them to crime in the first place.

The subsequent interventions from the floor were in the main securely in support of human rights and their importance in drug control. South Africa made an important point, calling for more emphasis on the right to development, which is rooted, said the speaker, in the UN Charter, the Declaration on Human Rights and other instruments of international law. Ruth Dreifuss would later reply by explaining that she had not raised the right to development in her speech because it had yet to achieve official recognition; regarding its importance, she was in agreement.

Pakistan responded to the entire discussion with one of its regularly expressed themes, that ‘human rights debate within the context of drugs should not be misused to legalise’. On a similar note, Iran was concerned at the preoccupation with ‘irrelevant topics such as the abolition of the death penalty’. The Iranian delegate continued that in his country’s view, certain parties apparently believed that ‘only greedy traffickers have rights’. Both Iran and Pakistan raised the principle of national sovereignty, evidently concerned about the potential encroachment of international law into the domain of domestic execution.

Interactive discussion on cross-cutting issues: new challenges, threats and realities in preventing and addressing the world drug problem in compliance with relevant international law, including the three international drug control conventions; and strengthening the principle of common and shared responsibility and international cooperation (d)²⁵

The second interactive discussion on Wednesday was presided over by Khaled Abdel-Rahman Shamaa (Egypt), with the panel comprising Tingfang Wu (China, for the Asia Pacific Group),

Konstantin Gobrusevko (Russian Federation for the Eastern European Group), Jose Moldiz Mercado (Bolivia, for GRULAC), Pier Vincenzo Piazza (France, the Western European and Other Group) and Lisa Sanchez (Transform Drug Policy Foundation on behalf of the CSTF). In addition to the involvement of the Transform on the panel, the session included a number of NGO statements from TNI, IDPC, the Non-Violent Radical Party, the International Federation of Red Cross and Red Crescent Societies (IFRC) and DeJusticia.

In his introductory remarks for the session Jean-Luc Lemahieu (UNODC, Director for Policy Analysis and Public Affairs) spoke about the difficulties in designing appropriate policies in the face of ‘knowledge gaps’. Consequently, he argued, there is an urgent need to invest in better data collection and improve the examination of situations across borders – an issue that makes data sharing essential – and remarked that the session was an opportunity to improve international cooperation.

With an improving, but still limited, understanding of illicit drug markets as the context for discussions, some participants stressed that innovative policies, including efforts to reduce the potential negative consequences of current policies, were needed to address the changing realities of markets, which differed between regions. On the topic of innovative policies, the comment of the IFRC is worth mentioning for its claim that ‘We need a different cultural approach whereby we underline the health challenges and priorities and work towards the decriminalization of drug users’; this position was supported by the representative from Transform. Speakers also noted a wide range of other approaches, with some stressing that the principles of non-intervention, sovereignty and territorial integrity remained crucial. Some statements and interventions also mentioned the importance of cultural traditions, with much emphasis given to the importance of placing the human being at the centre of policies. In this regard perhaps the contribution from Bolivia was most noteworthy in its critique of the current neo-liberal economic system, the perils of ‘permissive industrialised culture’ and the ‘need to return to Mother Earth’.

Although in far less poetic terms, most speakers, including those from the floor, in one way or another called for a humane and human rights-



Panel for the interactive discussion on cross-cutting issues

based approach to addressing the world drug problem. Once again, however, how these would be applied proved to be a point of difference. This was despite the fact that, in the view of the Colombia representative, there should be 'no excluded subjects at UNGASS 2016'. As it was, some participants emphasised that innovative approaches could be applied within the treaty framework, referring to guidance provided by the 2009 Political Declaration and Plan of Action and the importance of the drug control conventions as the 'cornerstone' of the international drug control system. For example, referring to work of the Organization of American States (OAS), a US representative argued that incremental change is possible within the conventions. 'We can work together to build consensus and move forward without giving up on the basic drug control framework' he said. This was echoed by the South African contribution that urged that 'future policies shouldn't undermine the conventions'. Repeating that country's stance on the first day, a Mexican representative noted that, 'We must also consider and discuss the transnational effects of unilateral policies and measures, particularly those that explore regulation'. With the promulgation of such positions coming from member states, it was perhaps no surprise that it was left up to NGO participants to speak more directly to the elephant in the room: the issue of treaty reform, or modernisation.

Having provided a caveat about the wide range of views coming from civil society, and as part of a noteworthy contribution, Lisa Sánchez stressed that 'it is vital that the UNGASS consolidates itself as an open and honest debate, where the problems and limitations of the current international framework are discussed, alongside the possibilities for a process of modernisation that can accommodate the changing needs of member states'. This was a point strongly echoed by Martin Jelsma, speaking from the floor for TNI. As part of another sophisticated input into the debate, he highlighted that in relation to coca and cannabis, to deny the 'reality that the drug policy landscape has fundamentally changed and that also systemic breaches have started to take place is no longer a credible option...An honest and open debate about the inconsistencies and the outdated nature of the treaty regime cannot be avoided much longer', Jelsma continued. In arguing that considering the 'treaty system to be a sacred cornerstone for the future whose integrity needs to be defended at all costs, is counterproductive', like Ross Bell in an earlier session, he called for the creation of a special advisory group for the UNGASS to discuss the tension between the treaties and some national policies.

With regard to new challenges, the discussion noted increases in the consumption levels of some drugs and a need to focus on AD, including 'preventative

alternative development’, and to improve the lives of those affected by illicit cultivation, an issue that generated some discussion on the importance of addressing poverty and unemployment. Following on from Pier Vincenzo Piazza’s presentation on the pathophysiology of neural plasticity and its relationship to drug dependence, significant attention was also given to the need for a scientific approach to understanding and treating drug dependence, with a few speakers noting what they regarded to be innovative pharmacological treatments available for cannabis dependence.

Following on from comments made within Interactive Discussion b, the Russian panellist led the call for improved cooperation regarding money laundering and the need to identify the financial foundations of illicit drug markets. It is necessary, argued Mr. Gobrusenko, to crack down on money laundering rather than allowing authorities to ‘decriminalise the entire market with toxic money’. On this point he also highlighted the commitment of the Russian Federation to the issue and its consequent introduction of a resolution in the COW. Reference was also once again made to the increasing use of modern technology and equipment by drug traffickers and, although the linkage between the two was not explained or questioned, terrorist networks. On the issue of technology, there was discussion on use of the internet, web systems and chat rooms for sharing information on production methods, trafficking routes and ordering non-scheduled chemicals and NPS.

On this point, and in relation to varying policy approaches among parties to the conventions, there was a general feeling among some participants that delays in legislation and imbalances in the scope of control across countries hindered effective action. Indeed, there were also calls to strengthen the international regime on NPS – which provided China with another opportunity to call for international control of ketamine – and for better cooperation in relation to the trade in ‘non-scheduled chemicals’, that is to say precursors.

Many speakers stressed the importance of partnership with the private sector and civil society to address drug-related issues at regional and international levels, with the Swedish observation that this session had seen ‘quite unusual debate, because there was some debate’ seemingly

reflecting the view of all those in the room. Mike Trace from IDPC, summed up the feelings of many NGOs when he urged participants to ‘approach this UNGASS process in a spirit of enquiry and openness, and constantly reminding ourselves that, whatever the pressures and sensitivities within these rooms, the outside world will not be impressed if all we achieve in 2016 is a re-statement of the consensus declarations we reached with such difficulty in 2009 and 2014’. Judging by a ripple of applause that crossed the delegates, some countries shared this perspective.

Interactive discussion on alternative development; regional and interregional and international economic cooperation on development-oriented, balanced drug control policy; addressing socioeconomic issues (e)²⁶

The final interactive discussion was presided over by Jamie Alberto Cabal Sanclemente (Colombia), who led the following panellists: Ahmadu Giade (Nigeria, for the Africa Group), Disoanadda Diskul (Thailand, for the Asia Pacific Group), Julio Garro Galvez (Peru, for GRULAC), Daniel Brombacher (Germany, for Western Europe and Other Groups) and Fay Watson (Europe Against Drugs, as the CSTF representative). Once again, a number of civil society statements were made from the floor.

In stark contrast to previous CND sessions on this topic, the special segment on AD stood out for the level of substantive discussion and the participation by civil society representatives. While countries and NGOs presented different points of view, numerous recurring themes illustrated the extent to which the debate has advanced in recent years.

A representative of UNODC began the discussion by pointing out that the most fundamental lesson learned to date is that farmers previously dependent on illicit crops will forgo these if provided with legal, viable alternatives. Others spoke of the need to treat farmers as partners in development, not criminals. A related issue repeated during the discussion was the declining economic assistance for such programmes. Such funding has decreased since 2009, giving the impression that AD programmes are not working. Increased and sustained support to some of the world’s poorest farmers is desperately needed.

Another recurring theme was the necessity of ‘mainstreaming’ what is traditionally known as AD into broader national economic development and poverty reduction efforts. Speaking in the slot given to the Asia Pacific Group, Dispanadda Diskul of Thailand noted ‘the impact of alternative development is enhanced if integrated into broader development programmes’. He was one of numerous speakers who underscored the importance of proper sequencing: ‘Let development come first, crop reduction will come later’. In other words, viable, sustainable livelihoods must be in place prior to significant crop reductions.

A hot-button issue within the CND, this point was ultimately not included in the final version of the International Guiding Principles on Alternative Development;²⁷ however, those speaking in favour of a ‘development first’ approach were in the majority at the special segment. A representative of the Indian government, for example, stated that his country had recognised that crop eradication by itself was unsuccessful and highlighted the need for ‘proper sequencing’ along with development efforts. As the civil society representative chosen to speak at the beginning of the session, Fay Watson of EURAD also emphasized that eradication should not be a prerequisite for AD.

Three additional NGOs were given the floor during the session: The Washington Office on Latin America (WOLA), TNI and IOGT International. Pien Metaal

of TNI gave an impassioned plea for taking into account the farmers points of view: ‘For most farmers unfortunately alternative development constitutes a hollow phrase of empty promises and disappointing results...leaving them and their families without any income, dire poverty and debts’.

Finally, discussion ensued on the importance of making AD an agenda item at the 2016 UNGASS. Daniel Brombacher spoke of the German government’s interest that the UNGASS provide an opportunity for an honest assessment of the successes and failures of current AD approaches, noting that the success of the UNGASS will be determined by the impact it has on peoples’ well-being. He called for the broader development community to be brought into the debate. Most significantly, he and others called for inviting affected communities and individuals to the debate, including small-scale farmers, to share their ideas and expectations.

Changes in the scope of control: Discussion and decisions on scheduling

Friday 13th March began with a session on ‘Changes in the scope of control’. The morning’s deliberations had been keenly anticipated, as there had been lengthy discussions and disputes for several weeks prior to the CND with regard to China’s proposal to place ketamine under international



The CND votes on the international scheduling of new substances

control. In the build up to the CND, a large group of clinicians and NGOs had campaigned against the scheduling of ketamine²⁸ (see Box 4), which is listed by the WHO as an essential medicine and plays a vital role as an anaesthetic in rural parts of the developing world, as well as in emergency contexts. Its availability would almost certainly be seriously compromised should international controls be imposed. In addition, the WHO, which is mandated under the conventions to conduct scientific reviews and make scheduling recommendations to the CND, has three times recommended against the scheduling of ketamine, most recently in June 2014.²⁹

In all, some 13 substances had been notified to the Secretary General for review and possible international control at the 58th CND. These were dealt with in order of receipt; however, we will discuss the case of ketamine last, since in a number of ways it represents the most important case under consideration.

The first substance to be discussed was **mephedrone**, which had been notified by the UK. In decision 58/1, the Commission voted by 47 votes to 0, with 1 abstention, to place mephedrone in Schedule II of the Convention on Psychotropic Substances of 1971. Significantly, this was classed by the Secretariat as the first NPS to be internationally controlled. In Decision 58/3, the substance **AH-7921** was placed in Schedule I of the Single Convention on Narcotic Drugs of 1961, as Amended by the 1972 Protocol. Subsequently, the following substances were placed under international control: **25B-NBOMe (2C-B-NBOMe)**, **25C-NBOMe (2C-C-NBOMe)**, **25I-NBOMe (2C-I-NBOMe)**, **BZP**, **JWH-018**, **AM-2201**, **MDPV**, and **Methylone (beta-keto MDMA)**. It was also decided, by consensus, not to place the substances **GBL** and **1.4 butanediol** under international control, owing primarily to their extensive industrial use.

The decisions taken in regard to the above mentioned substances were arrived at without significant controversy. Indeed, the introduction of each substance into the schedules of international control was greeted with applause from the floor, a curious practice which has become established at the CND, as though the drug's new status as 'controlled' was, in itself, something to celebrate. The discussion in respect of ketamine,

in sharp contrast, revealed marked differences of opinion amongst member states. China began by introducing its proposal to place ketamine under international control, explaining that it was motivated by what it argued was the widespread non-medical use ('abuse') of the substance. While it had originally called for controls under Schedule I of the Convention on Psychotropic Substances of 1971 – the most restrictive schedule, intended for substances that may only be used in a tightly regulated laboratory setting – China was now advocating for ketamine to be placed under Schedule IV – the least restrictive. This is likely to have been due to a growing awareness of building opposition to placing the substance in Schedule I from a large group of member states. However, it was argued by opponents of scheduling that placing ketamine under *any* level of international controls would impose unacceptable bureaucratic and technical hurdles before under-resourced states. As the WHO Expert Committee on Drug Dependence (ECDD) warned in its critical review of 2012, scheduling the substance is liable to result in 'a public health crisis in countries where no affordable anaesthetic is available', and to leave surgeons faced with the horrific choice of performing procedures either without anaesthetics, or not at all.³⁰

Furthermore, it must be recalled that this debate took place in the context of preparations for the 2016 UNGASS. The importance of rebalancing the drug control apparatus away from punishment and toward public health was therefore thrown into particularly sharp relief, as was the related principle of ensuring that substances proposed for international control should be subjected to an independent scientific review. The concept of rebalancing of the drug control system in favour of health, if it is to mean anything beyond a rhetorical flourish, must apply in cases such as that of ketamine, in which the health impact of further restricting access is potentially so far-reaching.

It was notable too that China and several of those states that supported its proposal called on the ECDD to take greater account of the 'economic, social, legal, administrative and other factors' surrounding ketamine;³¹ in fact, the ECDD's review consists of a scientific and medical analysis, while it is for the CND itself to examine these other factors. Some states offered very strong attacks on

Box 4 Civil society and the scheduling of ketamine

As noted above, China had placed before the 58th CND a proposal to review ketamine for scheduling under Schedule I of the 1971 Convention on Psychotropic Substances. The WHO had critically reviewed this substance in 2006, 2012 and 2014; on none of these occasions did it recommend the scheduling of ketamine. The WHO takes a balanced view in making its recommendations, and judged that ketamine's enormous therapeutic usefulness as an anaesthetic outweighed the limited problems deriving from its non-medical use. The substance is vital in rural parts of the developing world, where it is often the only appropriate and reasonably priced anaesthetic available. The application of international controls would be liable to greatly restrict this availability, with potentially disastrous consequences for the rural poor.

For these reasons, a fast-growing group of clinicians and civil society organisations specialising in drug control launched a campaign to prevent the scheduling of ketamine in the run-up to the CND. Clinicians from around the world, including surgeons and anaesthetists with experience of working in developing regions, teamed up with drug policy NGOs and affiliated experts, in addition to ambassadorial staff from a number of concerned governments, to initiate a public awareness and

education campaign to highlight the crucial role played by ketamine. The campaign also contacted the CND, the INCB and UNODC to raise these concerns, as well as professional associations, national governments and health departments.

From an initial baseline of vague public and governmental awareness – at best – of ketamine's role in medicine at the beginning of 2015, by the beginning of the CND the campaign had achieved high levels of publicity regarding the substance and the potential impact of the imposition of international controls. Moreover, as a by-product of the debate there was a growing understanding of the complex relationship between drug control and the availability of essential medicines. The debate at the CND reflected this changed climate, and many countries who had been ready to schedule ketamine, even under China's original proposal of Schedule I (the most restrictive control regime available and suited to drugs with no recognised medical use) were now concerned at the likely public health consequences, and willing to vote against the proposal if need be. It was these conditions that forced China to withdraw its proposal, at least for the present: going ahead would likely have resulted in defeat.

ketamine, with Pakistan, for instance, claiming that 'child abnormalities' had resulted from its medical use. Other states, such as the Netherlands, expressed serious misgivings regarding the proposal, while countries among the most affected, such as Tanzania, declared their governments were 'very concerned' over it.

Moreover, several countries had expressed doubts about the legitimacy of the procedure, questioning whether a vote could be called for at all in absence of a WHO recommendation to place ketamine under international control. In response, UNODC had requested the UN Office of Legal Affairs (OLA) in New York for a legal opinion about the matter. Unhelpfully, the OLA produced a confusing and questionable legal argumentation concluding that a vote to

schedule ketamine remained legitimate in the absence of a prior recommendation from the WHO.³² At the CND itself, several countries stated their reservations with respect to the OLA's reasoning, pointing out the risk of creating a precedent that would enable the CND to schedule by vote any substance under the 1971 Convention, thereby bypassing the WHO treaty mandate. The 1971 treaty established a threshold for substances to be eligible for international control, which requires a careful weighing of their addictive and harmful properties against their medicinal usefulness. The review of the WHO ECDD is 'determinative' regarding medical and scientific matters, whether or not a substance meets that threshold. Once the WHO has determined that a substance meets those minimum criteria warranting international control, the CND can then, and

Box 5 Resolutions and Decisions at the 58th CND

Resolution 58/1

Improving the governance and financial situation of the United Nations Office on Drugs and Crime: recommendations of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime

Resolution 58/2

Supporting the availability, accessibility and diversity of scientific evidence-based treatment and care for children and young people with substance use disorders

Resolution 58/3

Promoting the protection of children and young people, with particular reference to the illicit sale and purchase of internationally or nationally controlled substances and of new psychoactive substances via the Internet

Resolution 58/4

Promoting the implementation of the United Nations Guiding Principles on Alternative Development

Resolution 58/5

Supporting the collaboration of public health and justice authorities in pursuing alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature

Resolution 58/6

Strengthening international cooperation in preventing and combating illicit financial flows linked to drug trafficking, from the anti-money-laundering perspective

Resolution 58/7

Strengthening cooperation with the scientific community, including academia, and promoting scientific research in drug demand and supply reduction policies in order to find effective solutions to various aspects of the world drug problem

Resolution 58/8

Special session of the General Assembly on the world drug problem to be held in 2016

Resolution 58/9

Promoting the role of drug analysis laboratories worldwide and reaffirming the importance of the quality of the analysis and results of such laboratories

Resolution 58/10

Promoting the use of the international electronic import and export authorization system for licit

international trade in narcotic drugs and psychotropic substances

Resolution 58/11

Promoting international cooperation in responding to new psychoactive substances and amphetamine-type stimulants, including methamphetamine

Decision 58/1

Inclusion of mephedrone in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 58/2

Review of ketamine

Decision 58/3

Inclusion of AH-7921 in Schedule I of the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol

Decision 58/4

Review of *gamma*-butyrolactone (GBL)

Decision 58/5

Review of 1,4-butanediol

Decision 58/6

Inclusion of 25B-NBOMe (2C-B-NBOMe) in Schedule I of the Convention on Psychotropic Substances of 1971

Decision 58/7

Inclusion of 25C-NBOMe (2C-C-NBOMe) in Schedule I of the Convention on Psychotropic Substances of 1971

Decision 58/8

Inclusion of 25I-NBOMe (2C-I-NBOMe) in Schedule I of the Convention on Psychotropic Substances of 1971

Decision 58/9

Inclusion of N-benzylpiperazine (BZP) in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 58/10

Inclusion of JWH-018 in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 58/11

Inclusion of AM-2201 in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 58/12

Inclusion of 3,4-methylenedioxypropylvalerone (MDPV) in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 58/13

Inclusion of methylone (*beta*-keto-MDMA) in Schedule II of the Convention on Psychotropic Substances of 1971



The Committee of the Whole

only then, discuss the WHO recommendation and consider additional arguments (economic, social, legal, administrative and other factors it may consider relevant) to either adopt, reject or deviate from the choice for the particular schedule recommended by the WHO. As spelled out in the Commentary on the 1971 Convention, however, if the WHO 'recommends in its communication to the Commission that the substance should not be controlled, the Commission would not be authorized to place it under control'.³³

On the day before the scheduling decisions had to be taken, it became clear that if a vote was taken, the proposal to schedule ketamine stood a good chance of failing. Consequently, China suggested that the CND should postpone its procedure for the moment, and request more information on ketamine from the WHO and other sources in order to arrive at a decision. By consensus, the CND agreed, with states on both sides of the question complimenting the People's Republic on its flexibility. However, there is room for doubt concerning China's motives in proposing a postponement. It appeared from the discussions between member states that it would be difficult to achieve a winning vote, and in these circumstances China may have judged it best to retreat for now, while leaving the option open for future CNDs.

Whatever China's reasoning, obstructing its proposal was a significant achievement by the alliance of clinicians, civil society activists and diplomats that had brought the issue to public attention and provided information to those many government delegations at Vienna who had previously been unaware of the crucial role ketamine plays as an anaes-

thetic in the developing world. The postponement may only represent a temporary reprieve for those populations dependent upon ketamine for anaesthesia; in the meantime, however, it averts for now the public health crisis of which the WHO warned.

The Committee of the Whole

The COW is the space in which draft resolutions are proposed, debated and refined in order to form words acceptable to the delegations of the CND member states. Following this process, resolutions are submitted to the Plenary for adoption by the Commission, and finally to the Economic and Social Council for adoption by the UN. The COW is where the nuts and bolts of discussion and debate takes place, and where the underlying views of members states are rendered visible in ways that the more formal processes of the Plenary do not always reveal. Debates in the COW can become quite heated, despite the layer of courtesy with which diplomatic speech forms are encrusted.

At this year's CND, however, there was relatively little passion on display in the COW, even for diplomats (one thinks back to the much more spiky discussions over harm reduction or cannabis and the early entry into UN drug control discourse of the concept of human rights).³⁴ The proceedings were chaired by the Netherlands' Ambassador and Head of the Dutch Permanent Mission to the UN in Vienna, Mr. Peter van Wulfften Palthe, who proved a highly efficient master of ceremonies, ensuring a brisk pace was kept up throughout and reprimand-

ing states that attempted any form of procedural skulduggery. This approach was necessary, as only six sessions of the COW were scheduled for this year and no funding was available for translation, precluding any extension into the evening. 11 resolutions and a draft decision were due to be debated (see Box 4). 'That's two resolutions per session we've got to complete', he told the assembly sternly.

One further feature that was notable this year was what seemed to be a growing reliance upon the use of 'informals' to resolve differences occurring in the COW. These meetings are, as the name suggests, small get-togethers of the main protagonists in a disputed resolution, which are held on an ad hoc basis. Usually composed of small numbers of countries, they are closed meetings to which civil society observers are denied access. While no doubt convenient for Member States and useful from an administrative point of view, informals cut against the grain of the transparency that is viewed as integral to UN ethics and practice. Clearly, where questions of security feature, there will be limits to the ways in which civil society may monitor the conduct of the UN. But in questions of drug policy deliberated at the COW, it is arguable that the visibility of decision-making processes to the scrutiny of civil society is not only desirable but necessary. Without such a measure, it is becoming increasingly difficult to follow the textual development of drafts and to observe key points in the process by which a final resolution is arrived at. Consequently, IDPC calls for arrangements to be made for one or two civil society representatives to be present at informals.

Not only civil society organisations are left out by this mechanism. Country delegations composed of a small number of delegates also complained about the exclusive character of the informals, which is beneficial to those 'rich' countries that can afford to send sufficient officials. The issue came up several times during the sessions at the COW when countries were 'reprimanded' for re-discussing language that had been agreed upon at informals. At one point the Pakistani delegate irritably responded that there was no obligation to participate in the informals and that the COW was the place to debate resolutions. Iraq also complained about the 'unacceptable tone' when being reprimanded for not being able to be present at an informal and added that any country is entitled to say whatever it wants to say, and Egypt made similar calls.

The first resolution to receive any substantial debate in the COW was 58/9, *Promoting the role of drug analysis laboratories worldwide and reaffirming the importance of the quality of the analysis and results of such laboratories*. The resolution was perhaps prompted by the fact that this year's CND marked 60 years since the establishment of the UN Narcotics Laboratory, the predecessor of UNODC's Laboratory and Scientific Section, which has been based in Vienna for 35 years. Pakistan, true to form at the Commission, wished references to human rights to be removed from the text of this resolution, and to replace them with language that concerned 'the ensuring of effective law enforcement'. Finland and Latvia did not agree, and explained that references to human rights flowed from the need for accuracy in laboratory test results. The paragraph mentioned the reliability of test results, said Finland, and that's what protects human rights, whether the lab is related to law enforcement or medicine or public health. 'We need to know that the test results are both accurate and that they refer to the correct person'. These interventions received support from the USA, which explained further that, 'We've had people wrongly convicted because of inaccurate test results – it's a fundamental protection of human rights'. In the event, a consensus on the issue was reached in fairly short order. Nonetheless, such discursive tussles, however brief, demonstrated that despite the largely placid surface of the COW, the same undercurrents of conflict continue to flow, stemming as they do from differences in national political culture.

One resolution that caused the Chair to remark on the 'heated discussions' was that proposed by the Russian Federation, and which appears in the official CND Report³⁵ as 58/6, *Strengthening international cooperation in preventing and combating illicit financial flows linked to drug trafficking, from the anti-money-laundering perspective*. By Tuesday 17th March, despite going through repeated informals, there were, said the Chair, 'a few things which have not reached consensus'. Egypt wished to have the word 'illicit' included in the title, which at that time simply referred to 'financial flows linked to drug trafficking'. The Russian delegate pointed out, with considerable justification, that flows of money stemming from drug trafficking do tend to get mixed in with licit finances, and he wanted the resolution to refer to both. While a number of minor issues had arisen in relation to the phrasing of the resolution, it was the title that appeared to represent the major

sticking point. Finally, after a no-nonsense intervention from the Chair suggesting that the title should either be agreed then or taken to the plenary, a number of countries found it within themselves to invoke 'the spirit of compromise', and the title was finally agreed in the format shown above.

There had earlier been some surprise at the Russian Federation's draft resolution whose final form appears in the official CND Report as 58/7, *Strengthening cooperation with the scientific community, including academia, and promoting scientific research in drug demand and supply reduction policies in order to find effective solutions to various aspects of the world drug problem*. The Russian delegation in Vienna often takes a highly critical stance toward what are regarded by most other parties as matters of scientific evidence, such as the efficacy of Opioid Substitution Therapy (OST). In this instance, it was arguing for a closer relationship between the CND and the scientific and academic communities in order to provide scientific knowledge to the drug control system in a timely and accurate manner.

While, on the face of it, this resolution harmonises with the generally held position that policies and practices around the issue of drugs should be informed by scientific evidence, there are different conceptions of what constitutes both science and evidence. It is true, to paraphrase the UK intervention, that some countries, regions and territories utilise different disciplines and fields of knowledge in the study of drugs, and that different standards apply in these various fields. There is no single standard across all of these, as the resolution seemed to imply. An additional concern shared by IDPC and others was that Russia was here conceptualising 'science' along the lines of its domestic discourse of 'narcology', a set of theories, concepts, practices and institutions by which a very specific form of knowledge of drugs is produced. This field of 'narcology' has a singular and important history: it emerged from Soviet Russian psychiatry and its practices and competences were confined to that area that lay behind the 'iron curtain'.³⁶ Whether other parties would wish to use the insights provided by such a 'science' is, of course, another matter. It should be acknowledged that it is contended by some that Russian 'addiction' treatment is moving on from its historical basis in narcology, and comes closer now to those

forms of biopsychiatry common in the West.³⁷ A UNODC representative stated that the resolution reflected what is happening with a network of scientific experts, whom the CND had requested their countries to nominate in order to provide contemporary scientific evidence with respect to drugs. Though lacking funds, the CND will continue to mediate these encounters between scientists and policy makers in the future. The resolution was agreed with minor modifications. Some observers worry, however, that Russia will now provide the extra-budgetary resources to counterbalance the – from a Russian perspective – 'inappropriate science' that abundantly shows the effectiveness of harm reduction measures, both in terms of increased health and financial cost effectiveness, and increase its grip on how UNODC will use the scientific evidence in future documents.

The most important of the resolutions this year was that relating to the forthcoming UNGASS, 58/8 *Special session of the General Assembly on the world drug problem to be held in 2016*. Much of the negotiating of this hotly debated resolution took place behind closed doors in 'informals'. As mentioned above, this practice impeded civil society observers from assisting at the debates that took almost all week to conclude. Since the resolution also included civil society participation at the 2016 UNGASS this was rather inconvenient, not to say inappropriate. Nevertheless, some of the debates within the informals in the backrooms trickled into the corridors and it became clear that one of the most contentious issues was whether to mention the Civil Society Task Force. Pakistan, Venezuela, China and Cuba objected. Most of the debate at the informals was procedural but the undercurrent clearly was the increasingly diverging views on global drug policy. Harm reduction, for instance, was not included in the resolution. Once the resolution reached the COW, it was adopted without much debate. After some 30 hours of intense negotiations there was nothing left to say, and little time left to discuss the outcome.

As was the case last year, the resolution is basically a draft resolution that should be adopted by the General Assembly later this year. The main outcome of the resolution was the request to the CND to:

'...produce a short, substantive, concise and action-oriented document comprising a set of operational recommendations, based upon a re-

view of the implementation of the 2009 Political Declaration and Plan of Action, including an assessment of the achievements as well as ways to address longstanding and emerging challenges in countering the world drug problem, within the framework of the three international drug control conventions and other relevant United Nations instruments. This document, to be recommended for adoption at the plenary of the special session, should, inter alia, address measures to reach an effective balance between supply and demand reduction as well as address the key causes and consequences of the world drug problem, including those in the health, social, human rights, economic, justice and security fields, in line with the principle of common and shared responsibility’.

The length and construction of the paragraph is symptomatic of the cumbersome negotiation process, in which every step forward towards some kind of meaningful opening of the debate was countered by a step backward to maintain the status quo. The paragraph more than doubled in size compared to the initial draft resolution, which does not bode well for the prospect of a ‘short’ and ‘concise’ document to conclude the 2016 UNGASS, which will be negotiated before the actual session itself. The final outcome represented a rather bland, disappointing and, mindful of the consensus functioning of the CND, probably inevitable culmination of sustained negotiation. While it is of course positive that health, social, human rights, economic, justice and security considerations are prominent within the resolution, it still reflects the general mood that a fundamental review of the increasing tensions within the control system – many of which relate directly to human rights – is unnecessary, or, for some states, unwelcome.

Indeed, despite various calls from various quarters for wide-ranging and open debate that considers *all options*, the UNGASS resolution, in line with Mr. Fedotov’s opening statement, set the scene for a continuation of the processes initiated in 2009 and continued last year’s endless negotiations of the Joint Ministerial Statement.³⁸ Limiting the UNGASS objective to further strengthening the implementation of the 2009 Political Declaration, would be losing an important opportunity. This was most clearly expressed by Martin Jelsma of TNI in his intervention in the plenary: ‘Declaring the treaty system to be a sacred cornerstone for the future whose integrity

needs to be defended at all costs, is counterproductive. An open debate is an open debate, full stop. It is no longer an open debate if certain ideas for improvement are declared to be off-limit.’³⁹ However, chances for a significant breakthrough towards an open debate and useful recommendations for much needed reform did not increase with the adoption of this resolution. Egypt (with Ambassador Shamaa as the UNGASS Board chair) and UNODC will take the lead on preparing the draft.

The resolution also outlined in advance the topics of the five roundtable discussions to be held at the 2016 UNGASS, in a similar format to the interactive discussions at this year’s CND. These, at least, will represent some opportunity for an open debate, in particular in those discussions dealing with ‘cross-cutting issues’. Roundtable 3 will address the issue of drugs and human rights. A summary of the ‘salient’ points raised at the roundtables will be presented in the plenary and the final report of the event. However, this report will not have the same political weight of the ‘action-oriented document’ planned to represent the outcome of the UNGASS.

NGO engagement: Noticeable progress

In line with increased emphasis for the inclusion of civil society within the UNGASS debates in country statements and those from various UN officials, including Mr. Fedotov, NGO presence and participation was greater than at any previous CND session. There were 66 ECOSOC accredited NGOs present, in addition to the Sovereign Order of Malta and the International Federation of Red Cross and Red Crescent Societies (IFRC). NGO delegates numbered 227, with a further 4 from the Order of Malta and 24 from the IFRC.⁴⁰ Although the number of civil society representatives within country delegations was once again not as great as it has been in previous years, this was in many ways compensated for by the improved engagement within the CND process of NGO delegations themselves. Indeed, while still lagging somewhat behind practice in other parts of the UN, the 58th CND marked a significant watershed in the way the drug policy apparatus in Vienna engaged with civil society. In addition to the continuation of the Civil Society Hearing, planned dialogues with both the UNODC Executive Director and the President of the INCB and numerous NGO organised side events (many of which were in collaboration with member states) the

level and character of engagement within the plenary session and the UNGASS interactive discussions was unprecedented.

The Civil Society Hearing

On Monday 9th March, during the UNGASS Special Segment, the Vienna NGO Committee on Drugs (VNGOC) and the New York NGO Committee on Drugs (NYNGOC) held the fourth Civil Society Hearing.⁴¹ It is notable that for the first time, this hearing was not required to be 'informal' – as was the case in previous years – giving the event a stronger status in the CND debates. This was also the first Hearing that was organised both by the VNGOC and the NYNGOC – an important move both functionally and symbolically in terms of promoting balanced, inclusive and representative civil society participation in UN debates on drugs.

The Civil Society Hearing this year was primarily structured to present the newly created Civil Society Task Force (CSTF). The CSTF was set up as the official civil society participation and coordination mechanism in the preparatory process and at the 2016 UNGASS (see Box 6).

The opening session of the Hearing featured the UNODC Executive Director, UNGASS Board Chair Ambassador Khaled Shamaa, followed by Ambassador György Martin Zanathy, Head of the Delegation of the European Union to the International Organisations in Vienna, and the US Office of National Drug Policy (ONDCP) Director, Michael Botticelli. Esbjörn Hörnberg and Heather Haase – the co-chairs of the CSTF – then introduced the Task Force, discussing the importance of civil society engagement in UN debates on drugs, and calling on member states to support the meaningful participation of civil society in the lead up to and at UNGASS.

The rest of the Hearing was divided into two panels. The first panel discussion gave more insights into the work of the CSTF, and offered an overview of its members.⁴⁴ This was followed by a preview of the Global Civil Society Survey for the 2016 UNGASS.⁴⁵ This tool, launched in April 2015, aims to measure the level of awareness, knowledge and interest of civil society to participate in the UNGASS, and its results will inform the CSTF on which NGOs are active in the field, what are their concerns and priorities, and how these can be addressed at the UNGASS.

Box 6 The Civil Society Task

Building on the success of the Beyond 2008 initiative and after reviewing best practices of civil society involvement in other recent high-level United Nations General Assembly meetings, the VNGOC and the NYNGOC collaborated on setting up the CSTF. The Task Force was officially launched at the 58th CND reconvened session in December 2014.

The CSTF is composed of 26 members, including 18 regional representatives and 4 representatives of affected populations – such as people who currently use drugs, families of affected populations, representatives of illicit substance growers, experts in sustainable livelihood and AD, etc. The full list of members is available online.⁴²

The CSTF was set up to act as official liaison between the UN and civil society in the preparatory process of and at the UNGASS 2016. The objective is to ensure a comprehensive, structured, meaningful and balanced participation of civil society during this process. More specifically, the CSTF will work closely with the UNODC Civil Society Team to:

- identify speakers and participants for all relevant UNGASS 2016 preparatory events (as was the case for the UNGASS interactive discussions at this year's CND)
- lead regional consultations across the globe, in particular through a Global Civil Society Survey (see below for more details)⁴³
- co-host a meeting for NGOs, governments and other stakeholders prior to the UNGASS, whose conclusions would be an officially recognised document at the 2016 UNGASS.

The Civil Society Hearing was also an opportunity to start identifying key priority areas for the UNGASS preparations, including: a call for an open, inclusive and innovative debate; the role of the UN drug conventions; the need for a public health approach to drug policies; and the importance of



Panel at the Informal Civil Society Hearing

promoting global access to essential medicines, to protect the rights of the child, to engage drug users, recovered drug users, families and communities, to promote AD and proportionality of sentencing, and to abolish the death penalty. Participants included speakers selected by the CSTF (these speakers were the same as those nominated to participate in the UNGASS Segment interactive discussions), as well as other representatives from around the world. Detailed information about the Hearing is available on the CND Blog⁴⁶ or the UNODC website.⁴⁷

The NGO informal dialogue ‘with’ the UNODC Executive Director

For the first time since the CND informal dialogues with the UNODC Executive Director began in 2012, the Executive Director was not actually present at the dialogue. Mr. Fedotov designated his deputy, Aldo Lale-Demoz, to replace him, with the only explanation given for his absence being his need to attend to an ‘important matter’. Mindful of the Executive Director’s clear commitment to civil society engagement, we look forward to re-engaging with him at next year’s dialogue.

This being the case, it was down to Mr. Lale-Demoz to field a range of questions from participants at the dialogue, a task that he dealt with adequately, although perhaps without the gravitas of his senior colleague. On the issue of cannabis policy reform, Mr. Lale-Demoz said that providing evidence-based education and scientific information about drugs is an important part of UNODC’s work, in order to ensure that understanding about drugs is not driven by ideology and morality. The Deputy Director also

noted that he did not believe there is harmless use of cannabis; a point echoed by Dr. Gilberto Gerra, chief of the UNODC Drug Prevention and Health Branch, who, also as a member of UNODC on the panel, said that it should only be used under medical control.

On the issue of capital punishment, Mr. Lale-Demoz and Dr. Gerra both also emphasized that UNODC has made clear representations to Indonesia against use of the death penalty and compulsory centres for drug users, saying that the Office has been promoting both proportionate sentencing and voluntary treatment. Mr. Lale-Demoz said that UNODC is working publicly and in private, including with Indonesia and Iran, to persuade member states to abolish the death penalty. Dr. Gerra pointed out that UNODC is developing a model law as part of its efforts on this issue, and that the conventions do not require the imposition of the death penalty and therefore do not need to be reformed.

To promote proportionate sentencing for drug offences, Mr. Lale-Demoz noted that UNODC runs many programmes to promote its norms and standards, developed together with civil society organisations, on a daily basis. Dr. Gerra also noted that the conventions refer to the adoption of alternatives to incarceration in cases of a minor nature, which should be applied where such minor offences are committed due to drug dependence, poverty and mental health problems. He continued to point out that while treatment should be provided as an alternative to imprisonment, in practice it has not been widely applied.

In response to a question about UNODC’s ability to assist member states with revising their drug laws to address issues such as reducing the use of imprisonment for drug offences, Mr. Lale-Demoz acknowledged the need for it but also stressed the lack of staff available to provide such advice at short notice. On this issue, Dr. Gerra referred again to UNODC’s development of a model law, a useful tool which, while in need of further refinement and nuancing, IDPC certainly considers an improvement upon its predecessor.

The final question came from a representative from Soroptimist International, who asked UNODC and member states to ensure that gender-based data, including on drug consumption by women, and consideration of issues such as forced abortions are a focus for the 2016 UNGASS. In response, Mr. Lale-Demoz noted the increased numbers of side events and conferences on issues relevant to women who use drugs.

Dialogue with the INCB President; Conciliatory, but still problematic

The meeting with the new INCB President had a different tone to previous ones with Raymond Yans, who was much less conciliatory in his attitude toward civil society. Indeed, Dr. Naidoo did his best to set the tone of the dialogue by welcoming the work of NGOs, commending their role in sharing best practice on the ground and saying that they gave a voice to people who would ‘otherwise

be invisible’. However, some aspects of his engagement were reminiscent of previous years, particularly in regard to the often inconsistent – and arguably erroneous – interpretations of the role of the Board. For instance, in setting out the context for the session he recognised that the ‘international drug control system has undoubtedly changed since 1961 and policy must adapt to these changes’. However, apparently forgetting comments at the opening session, Dr. Naidoo maintained that member states are ‘sovereign’ and that the INCB cannot dictate to them. The INCB is ‘only a compliance organization’ he insisted, a position he defended even when challenged on the point that compliance bodies may contribute to the resolution of systemic tensions.

In response to questions concerning the INCB’s country missions, it became clear that, despite the existence of the NYNGOC, the Board increasingly regards the VNGOC as the key conduit between itself and the NGO community. Accordingly, Dr. Naidoo stated that all NGO feedback for missions should go through VNGOC. He also stressed that the INCB is not an organ for implementing policy; rather, he claimed, the Board follows up its visits to member states to ensure recommendations have been adhered to.

On the issue of access to essential medicines, he shifted responsibility to NGOs, arguing that problems encountered around shortages are due to ‘implementation at the domestic level’ and in



Informal dialogue with the INCB President

so doing brushed off the complex, multifactorial causation of the lack of access to opioids. Further, in claiming that it is important for NGOs and others (although these 'others' were not defined) to 'encourage states to remove barriers to access medication', Dr. Naidoo did much to defer the Board's treaty mandated responsibility to 'ensure' the availability of controlled drugs for medical and scientific purposes.

Moving on to the issue of regulated cannabis markets, in answer to a question from Drug Policy Futures on how the INCB will emphasize the importance of the conventions in relation to laws that contravene them, Dr. Naidoo admitted that the INCB's role 'is becoming increasingly difficult' in the light of changing policy options within sovereign nations. The INCB's acknowledgement of the treaties' defence of national sovereignty sat uneasily alongside its continuous and vocal support for 'shared responsibility'.

Indeed, this tension was apparent in regard to his portrayal of the Board as a compliance body and the President's statement that 'it is the prerogative of members to bring forward their recommendations'. 'The INCB can only comment on compliance with the treaty. The mandate is very clear. I've gone out of my way to look at areas where we can accommodate people', he continued. At this point it became clear that the Board, or certainly the President as its public face, is feeling unduly criticised in its approach to the shifting policy landscape. Having stated that the Board had been emphasizing the 'enormous amount of flexibility in the conventions' he requested detractors – presumably critical NGOs – to stop viewing it as the 'bogeyman' and suggested they should 'direct' their 'stone throwing at others', doubtless member states. It was a piece of advice he then put into practice. Displaying his disbelief at the actions of sovereign states and democratic subunits thereof, Dr. Naidoo declared: 'I find it difficult to understand that so much money, and so many great minds have applied themselves to find a solution to the world drug problem, and they come up with one solution; to legalise cannabis'. Instead, he argued that 'we need to find better solutions' and to widen this agenda, including by placing the 'pillar of alternative development... higher on the agenda'.

The President expressed concern about AD and food security, stressing that there needs to be more

focus from the CND on how the drug problem affects food security. He reiterated the INCB's position that states that impose the death penalty for drug offences should abolish the practice, and highlighted that the conventions 'don't stipulate that the death penalty should be used'. That said, Dr. Naidoo must surely be aware that states that do impose the death penalty for drug offences, such as China, Iran, and Indonesia, take refuge behind Dr. Naidoo's own defence of sovereignty and self-determination.

NGO plenary statements: At last, equal status

The level of NGO participation in the debates this year – in particular during the UNGASS Special Segment – was unprecedented.⁴⁸ In the past, NGO statements in plenary sessions or roundtables were relegated to the end of the speakers' list, and NGO speakers were only called upon to make a statement if time allowed. This year was a significant step toward the meaningful participation of civil society in the debates. NGOs attending the UNGASS Segment were agreeably surprised to arrive in a Plenary room where each of the ECOSOC accredited NGOs had an allocated seat for a representative. Being accustomed to having to stand, sit in the translators' rooms or even on the floor, this was already a welcome sight. During the interactive discussions, as alluded to above, NGOs were also able to participate in two ways. First, one NGO representative was present in each of the five panels – each NGO speaker was nominated by the CSTF based on their technical expertise and mindful of geographical representation. Selections were also made from amongst NGO delegates with differing policy perspectives in order to offer a balanced overall view on drug policy. As with the other panelists, each NGO representative had nine minutes to present on the topic at hand. Secondly, any other NGO was allowed to make a three-minute contribution from the floor. Each chair for the interactive discussions made a point of alternating statements made by member states and those delivered by NGO speakers, therefore truly promoting an open and inclusive dialogue throughout the UNGASS Segment. This trend continued during the regular CND session, although less NGOs took the floor during that part of the event.

The quality of NGO contributions was also noteworthy. NGO experts offered valuable insights into lived experiences of those most affected by drug control, including people who use drugs, illicit crop growers, people incarcerated for a disproportionate amount of time for minor drug offences (in particular women), youth and people facing the death penalty for drug offences. A representative from Reprieve and the head of the Indonesian drug user network PKNI both made powerful appeals for the abolition of capital punishment, while a representative of the International Network of People Who Use Drugs (INPUD) made a call for the UN to fully support the decriminalisation of people who use drugs and for harm reduction services to be protected.

The need for a health-based approach to drug use (encompassing evidence-based drug prevention, harm reduction and treatment, as well as the need to increase access to essential medicines) was prominent in NGO statements throughout the UNGASS Segment. On the supply reduction side, TNI, WOLA and Europe Against Drugs all made strong calls for the end of forced crop eradication and for the adoption of a humane and development-oriented approach to those cultivating crops for illicit markets, as well as for the inclusion of subsistence farmers in the design and implementation of programmes that affect them. Other statements – for instance those delivered by IDPC – focused more specifically on the need to review the global drug control system to promote public health, human rights, development and social inclusion, and for the UNGASS to truly be an open and inclusive debate, rather than a simple reaffirmation of the Vienna consensus enshrined in the 2009 Political Declaration on the world drug problem and the 2014 Joint Ministerial Statement.⁴⁹

TNI called for the establishment of a special advisory group following the 2016 UNGASS, tasked with examining contentious issues in the drug control architecture, and producing recommendations on managing them in preparation for the next UN high-level review in 2019. It urged member states to use the 2016 UNGASS on drugs ‘to conduct a wide-ranging and open debate that considers all options.’⁵⁰ The expert advisory group should cover key issues, including the UN institutional drug-control architecture; UN system-wide coherence on drug policy; harmonisation of drug control with human rights and development principles;

inconsistencies of the treaty regime regarding scheduling criteria and procedures; securing the availability of controlled drugs for medical purposes; and the increasing legal tensions with evolving policy practices, especially with regard to cannabis regulation.⁵¹

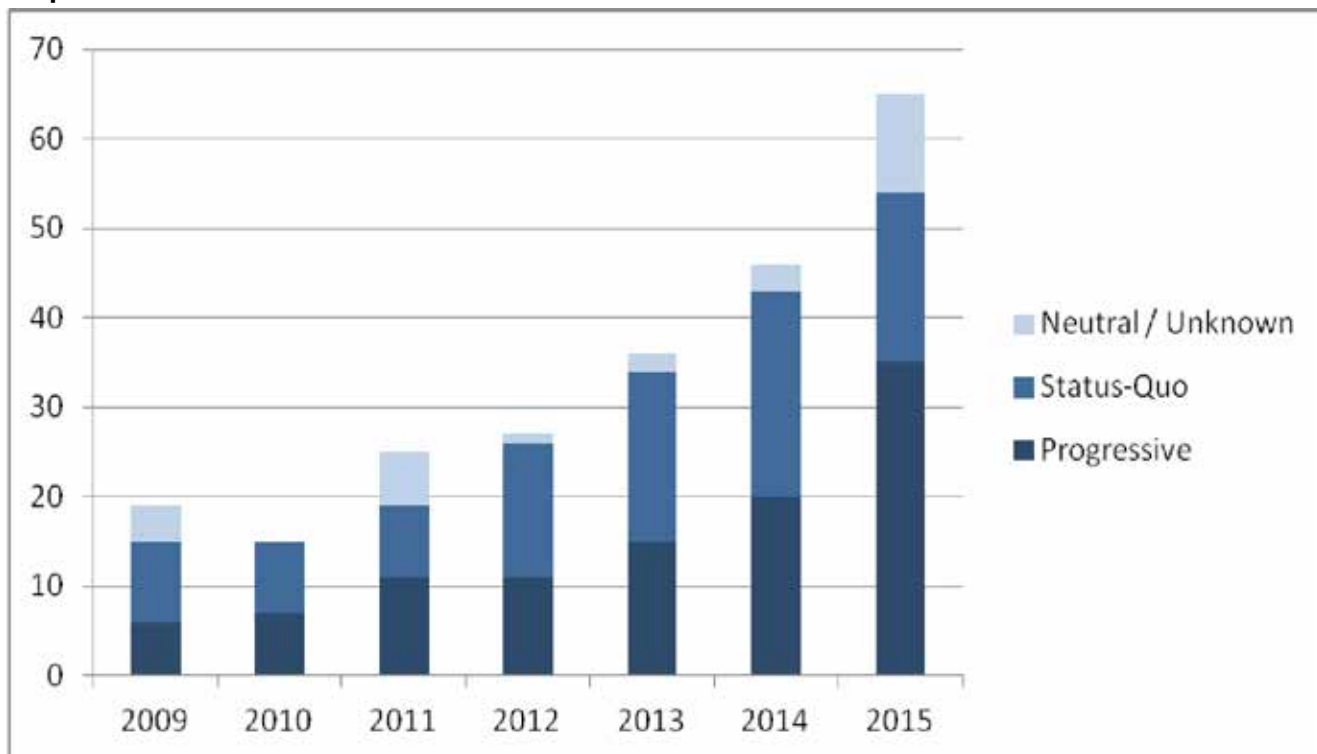
Side events: More than ever (but, perhaps too many?)

There was an unprecedented number of official CND side events this year, with 61 events⁵² organised by governments, NGOs, UN agencies and regional bodies between Monday 9th and Tuesday 17th March – plus four side events⁵³ organised by IDPC and/or partners in the Mozart Room, in the restaurant of the Vienna International Centre.

Side events this year focused on a wide range of issues, including the 2016 UNGASS, drug policy debates in Latin America, harm reduction, alternatives to incarceration, human rights, access to essential medicines, metrics and indicators, young people, cannabis regulation, drug prevention, drug dependence treatment, NPS, AD, drug trafficking, crime and money laundering. These events continue to be an important opportunity to open a real debate on international drug control. Most events were very well attended throughout the UNGASS and CND sessions, and most were organised through collaboration between NGOs and government delegations – displaying a positive attempt by a number of governments to promote the voice of civil society at the CND.

However, as was the case last year years, the sheer number of events meant that many schedules clashed, with up to five events taking place simultaneously and often covering similar issues. For example, on Wednesday 11th March, four events ended up discussing drugs and young people. However, it was very encouraging to see an increase in the number of events promoting health (with events focusing on prevention, treatment, harm reduction, access to controlled substances for pain medication), human rights (including on the death penalty) and policy reform (alternatives to incarceration, decriminalisation, cannabis regulation, to name a few). The UNGASS debate and the need to ensure adequate access to essential medicines were particularly prominent topics of discussion. Finally, more events focused on regions that tend to be under-represented in the

Graph 1. Evolution in the number and orientation of CND side events between 2009 and 2015



global drug policy debates, such as Africa. The fact that two side events specifically discussed issues relevant to the continent, and that African speakers were included in several other events, is therefore very much welcome.

Beyond commenting on the increase in number of side events, it is also interesting to examine their general focus and how this evolved over time. To this end, IDPC has conducted a brief survey of all side events organised during CND sessions since 2009. These have been classified in terms of those promoting policy reform ('progressive'), those that remained entrenched in the traditional zero-tolerance towards drugs ('status quo') or those that retained a 'neutral' focus (i.e. in terms of event title) or were not easily classifiable. Graph 1 above presents the results of this study, and shows that while there were relatively few 'progressive side' events organised until 2012, these have increased significantly since 2013. Mindful of the fact that the survey included all events (NGOs, country and UNODC organised), the data provide a strong indication of increasing willingness to discuss various aspects of policy reform across the drug policy community.

Some of the key side events that took place at the 2015 CND were captured on the CND Blog.⁵⁴

The INCB: More measured and diplomatic

As is always the case, in addition to interventions at other points within the session, this CND saw the INCB President present the Board's Annual Report and its report on precursor chemicals. This year these were also accompanied by two technical publications on Narcotic Drugs and Psychotropic Substances. In setting the scene, Dr. Naidoo pointed out that 2015 marks the 46th year of the Board's analysis of the world's drug control situation. He then went on to remark that the conventions are based on two mandated purposes and one underlying principle: to protect populations from the dangers of 'drug abuse' and trafficking, to support states in ensuring the availability of controlled narcotic drugs and psychotropic substances for medical and scientific use, 'in order that member states may work together to collaboratively promote the "health and welfare of human kind"'. Dr. Naidoo stressed that today 'the Board works closely with member states in pursuit of the same principle', but cautioned that 'success depends on striking a fine balance; balancing availability with control, ideological divergences with cooperation, and established policies with new approaches'.

Having set out what are indeed some of the core challenges currently facing the international com-

munity, the President emphasized the focus of this year's report, 'implementing a comprehensive integrated and balanced approach to addressing the world drug problem', and stressed the need for a multidisciplinary approach that gives predominance to adequate access to essential medicines, demand reduction efforts, and international collaboration. On the first of these points, he took time to stress how the report draws attention to the fact that roughly three quarters of the world's population does not have adequate or any access to essential medicines. While he noted that this issue was a priority for the Board, it was difficult, however, not to think about the INCB's role in helping to sustain this situation through what we have referred to elsewhere as its 'aversion to diversion'.⁵⁵ Dr. Naidoo also emphasized states' responsibility to reduce illicit demand for drugs, and to share good practice on 'prevention, early intervention, treatment, rehabilitation and social integration'. In a welcome call for 'integrated, holistic and balanced responses from states', he noted how the report highlighted the importance of the socio-economic drivers of drug dependence.

Dr. Naidoo also took the opportunity to draw attention to the fact that the report's foreword alerts member states to their responsibilities under Article 33 of the Convention on the Rights of the Child and the Board's interpretation of this to mean the protection of children from illicit drug use and the prevention of involvement of children in the drug trade – both of which are of course honourable intentions. While, as ever, this included an implicit assumption that policies in their current form are the best way to protect children from the harms of the drug market, this is an interesting instance of the Board looking to other parts of the UN system. Reference to rights-based instruments brings to mind – somewhat uncomfortably for the Board – a range of systemic tensions including, for example, its lack of comment on aerial fumigation and associated conflict with indigenous rights. That said, the INCB must be commended once again for highlighting the call within the Report for the abolition of the death penalty for drug-related offences.

In calling for universal 'adoption, participation and implementation' of the conventions, Dr. Naidoo highlighted Afghanistan's accession – after many years of work – to the 1971 Convention, but noted how the Report flagged up ongoing issues within the country, particularly in relation to opium production.

The concept of universality also steered the President's talk, inevitably, towards the topics of medical cannabis schemes and legally regulated cannabis markets. Uruguay was highlighted as 'the only State party to the 1961 Single Convention, which has legalised the production, distribution, sale and consumption of cannabis and its derivatives for purposes other than medical and scientific use'. According to Dr. Naidoo: 'This State-regulated market, established by national legislation passed in December 2013, is in breach of Article 4(c) of the 1961 Convention, as well as the 1988 Convention, Article 3, Paragraph 1(a)'. It is an interpretation of the conventions with which it is hard to disagree. Adopting a remarkably moderate tone, especially when compared to that of his predecessor, the INCB President noted that 'The Board will continue its on-going dialogue with the government of Uruguay, and looks forward to promoting international cooperation and compliance with United Nations drug control treaties'. Regarding the USA, Dr. Naidoo noted that, 'As of this year, medical cannabis programmes have been introduced in twenty-three states'. He continued to stress that 'many state-run programmes do not meet the legal requirements of the 1961 Single Convention or the requirements of United States federal law', and pointed out that Chapter 2 of the Annual Report 'discusses in detail the control measures applicable to medical cannabis programmes'. On the more controversial issue of regulated markets, the President noted that 'four states and one federal territory have regulated or 'legalised' the consumption of cannabis for non-medical purposes'. 'The Board stresses', he continued, 'that these initiatives are not in conformity with United Nations international drug control treaties, which limit the production, manufacture, import, export, distribution of, trade in, use and possession of scheduled substances exclusively to medical and scientific purposes' – again a position that is hard to challenge. As with his comments on Uruguay, Dr. Naidoo noted in a measured manner that: 'The Board will continue to consult with the United States government on issues of implementing international drug control standards across its entire territory'.

A sizable portion of the remainder of the President's statement was taken up with discussion of the report's attention to NPS and a range of new systems that the Board had developed to enable member states to better track and communicate about both scheduled and non-scheduled sub-

stances (for example, Project ION, I2ES, a member state New Psychoactive Substance Focal Point Network, and global communications platform; Project ION Incident Communications System, or IONICS). Mindful of the fact that much of this activity was funded from extra-budgetary resources, Dr. Naidoo thanked those states that had provided resources. He also expressed the Board's gratitude to the governments of those states visited in the course of the INCB country missions (Iceland, Nicaragua, Panama and the United Republic of Tanzania), although strangely he did not refer to engagement with NGOs during those visits.

The President ended his statement by coming back to some of the core – although as we have seen, still not universally understood or applied – themes within the issue area. 'Finally, and crucially,' he concluded, 'the Board reaffirms its support of human rights standards in the development and implementation of international drug control law and policy'. 'On a shared foundation of respect for human rights, concern for the "health and welfare of humankind"', he continued, 'Member States in preparations for 2016 have an opportunity to address the roots of the world drug problem, promote compliance with international treaty law, and devise 'comprehensive, integrated and balanced' solutions'.

In response to Dr. Naidoo's statement, many states expressed their appreciation for the work of the Board, especially in relation to the Report's thematic chapter on the need for a comprehensive, integrated and balanced approach to addressing the world drug problem. The INCB also received praise for the development of various monitoring systems for NPS and precursors. Some states reaffirmed their opposition to the death penalty, although others, in oblique references to the issue, noted the importance of national sovereignty. A number of states supported the Board's view of the importance of access to essential medicines, with one commenting that where the Board cited statistics, the sources should be shown.

UNODC budgetary and governance issues: Changing practices, but still budget crisis

There was a certain sense of *déjà vu* about the discussions of UNODC's financial situation. In short, it remains vulnerable. Opening statements from

both the Director of the Division for Operations and the Director of the Division of Policy Analysis and Public Affairs revealed a drop in income and associated concerns around sustainability and uncertainty. This was a situation that reflected reduced overall contributions from member states, as well as a devaluation of the Euro. As the accompanying documentation for Item 3 shows,⁵⁶ the consolidated budget for the biennium 2014-2015, as revised, totals \$760.1 million, of which only 11.7 per cent comes from regular budget funds and 83.3 per cent from extra-budgetary resources. The Office representatives, with considerable legitimacy, regarded continuingly low levels of non-earmarked or soft earmarked funding as representing a challenge for the effective implementation of the mandates and programmes of UNODC; a situation that puts a strain on its management, coordination and normative functions.

It was noted that as part of the implementation of the 2014-15 budget the Office has implemented full cost recovery and, responding to calls from member states, undertaken efficiency programmes in Vienna and field offices. This had resulted in savings of US\$3 million and US\$1.2 million respectively. The overall recommendation from UNODC was that the Commission may wish to consider requesting the member states to address, as a matter of urgency, the need to provide UNODC with adequate, predictable and stable resources, including additional regular budget resources. This would, it was argued, enable it to implement its mandated work in a sustainable manner. Moreover, providing the Office with necessary voluntary contributions (preferably based on non-earmarking or soft earmarking) would allow it to respond effectively to increasing demand for technical assistance and expand and consolidate its technical cooperation with regional bodies and partner countries.

In response to these introductory remarks, there was general appreciation of the work of UNODC. Some speakers noted that the increase in special purpose funding should be seen as a sign of donors' confidence in the Office's activities although there was some concern from states, including Japan and Sweden, for the decline in general purpose funding with calls, for example from China, to increase it as it had done. On this point, the representative from the USA made it clear that the decline in US funding was a result of internal issues and should not be

seen as the country sending a message to UNODC. Member states overwhelmingly welcomed the implementation of full cost recovery with some such as Japan and India stressing the need for ongoing evaluation of the process and increased transparency overall. Indeed, the Swedish representative urged for improved efficiency and stressed that it is important for UNODC to stay competitive by maintaining low overheads. There was also some discussion of results based management within UNODC, with Sweden calling for next year's budget to include this mechanism. In relation to this issue, some speakers, including from Norway, also mentioned the need to define robust indicators and ensure that the Office's programmes were based on respect for human rights and rule of law. Additionally, it was noted that it is important for UNODC to cooperate with external actors, including those from civil society. In concluding its contribution to the discussion, the representative from Norway expressed concerns about a lack of strategic direction of UNODC and the cost inefficiencies that this may generate.

At a number of points within the discussion, and indeed under other agenda items over the course of this year's session, member states and regional groups (for example the G-77 and China, the Africa Group, the Asia Pacific Group) expressed their continuing support for the work of the open-ended intergovernmental working group on improving the governance and financial situation of UNODC, (WG-FinGov or simply FinGov). A number of states and groups supported an extension of its mandate and duration (Japan, Brazil and the Asia Pacific Group), with the USA quick to use the opportunity to thank FinGov for its work, but noted that the activities of UNODC must remain in line with the UN drug control conventions.

It is also worth noting that when discussing the finances, operation and governance of UNODC, member states placed considerable emphasis within discussions on staff composition, including gender and geographical balance. Several speakers welcomed inclusion of the topic, including in the plenary on the first day the Africa Group, and in some cases commented specifically on gender balance within the Office. Although UNODC revealed that 43.4 per cent of its staff are women, some speakers commented on the need for improvement, especially in terms of senior positions. This was a point stressed by the Swedish speaker who argued that gender balance exponentially increases effectiveness. Although no other speaker went quite this far in an analysis of management science,

there was agreement that both gender and geographical balance should be incorporated into the recruitment policy of UNODC both at headquarters and in the field.

Conclusions: Preparations for the 2016 UNGASS - Time to get real?

As has been the case with recent Commissions, the 58th CND represents a complex mix of themes and trends, some of which may be called broadly progressive, others that were classically reactionary and resistant to any suggestion of change. However, as we reach this key stage in the life cycle of the international drug control regime, a juncture at which some states are now in open breach of the treaties and a generalised mood for change is spreading further than ever before through global culture, the pressure of events has charged all elements of the CND mix with a new and historic urgency. The extent to which the CND both conveys and comes to terms with this urgency is, surely, the yardstick by which its success or failure will one day be measured. A repetition of the 2009 or 2014 efforts is unacceptable.

The argument that the UN drug control conventions represent the 'cornerstone' of the international community's response to the numerous and cross-cutting issues that make up the 'world drug problem' is one that has been nearly ubiquitous at the CND. Yet it is, for all its apparent political purchase, a problematic argument, particularly insofar as the conventions conflict at multiple points with the UN instruments on human rights. The public commitment to human rights is one that is expanding rapidly at the CND and across the organs and agencies of the drug control system. This development is clearly a welcome one; nonetheless, as we have shown in the foregoing report, one does not have to look very deeply beneath the surface of the regime's human rights discourse before the varying interpretations and different policy imperatives of states become visible. Despite these 'cracks in the Vienna consensus', there remain powerful political and institutional forces seeking to contain the growing dissonance, and to conceal it beneath a rhetorical patina of consensus. In these circumstances, the chances for 'a wide-ranging and open debate that considers all options'⁵⁷ do not look good. In the longer run, though, if the UNGASS fails to connect with the movement for change, this skin-deep, formal

consensus will look increasingly remote from the real world.

If the drawing near of the drugs UNGASS represents the key issue facing the control architecture, a number of important procedural issues arose at the 58th CND, many of them related to the question of the UNGASS. It is, for example, a long-standing practice for countries to read out their government statements at the Plenary sessions. However, with the UNGASS meeting due in April 2016, such a tradition can become, frankly, a waste of precious time, which could – and should – be spent on substantive discussions in preparation for the Special Session. Country statements, particularly those used to parade a litany of seizures and prosecutions, should in this context remain online, or might perhaps be replaced by video. The problem of a lack of time was a pressing one at this CND, and some countries were not happy to find themselves hurried along by the Chair; others, at the suggestion of the Chair and in the interest of the ‘big picture’, relinquished their right to speak.

A related problem arose with the overuse of informals, which, as reported herein, denied democratic oversight of key points in the drafting of resolutions, especially for civil society organisations and countries operating with restricted budgets.

One promising development was the recurring appearance in discussions of the question of new metrics and indicators. The Colombian speaker in the Plenary took up this theme, stating that ‘(w) e need new measures to match new realities. The drug control regime must be more flexible, enabling different approaches; indicators should be used – not just seizures...’

In keeping with the key theme of the 58th CND and its Special Segment, the most important discussions were those surrounding the 2016 UNGASS. The timing of the UNGASS could scarcely be more appropriate, with the public appetite for change to the present drug control regime growing more widespread and insistent as each year passes. It is of the utmost importance that attempts to ensure an open, realistic and respectful discussion are continued despite the political struggle to preserve the conventions in their present form. An important facet of this must involve a candid discussion of differences between countries, and both parties and UN agencies should desist from concealing real and important divergence of views

behind the language of bland and false consensus. The formation of an expert group to review the tensions in the current system is an indispensable step toward this objective.

Finally, although the reform of the treaties – which need not, incidentally, consist of a total rewrite but rather, among other things, the alteration of some states’ relationships with them – will doubtless represent an arduous political and diplomatic undertaking, we all carry the shared responsibility to adjust our drug policy apparatus to the demands of reality. Anything less will represent a waste of the opportunity that the 2016 UNGASS was intended to offer.

Acknowledgements

The lead authors of this report, Dave Bewley Taylor and Christopher Hallam, would like to express their gratitude to members of the IDPC secretariat, along with Tom Blickman, Coletta Youngers and Katherine Pettus. Thanks also to Martin Jelsma for his helpful comments and suggestions. Any errors of fact or interpretation remain the responsibility of the authors.

Endnotes

1. <http://idpc.net/publications/2014/06/the-2014-commission-on-narcotic-drugs-and-its-high-level-segment-report-of-proceedings>
2. <http://www.unodc.org/unodc/en/frontpage/2015/March/commission-on-narcotic-drugs-opens-its-58th-session-in-vienna-with-eye-on-2016-drug-meeting.html>
3. <http://www.un.org/sg/statements/index.asp?nid=6935>
4. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/07_Colombia.pdf
5. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_PM/18_Argentina.pdf
6. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_PM/16_Mexico_English.pdf
7. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_PM/27_Ecuador.pdf
8. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/04_African_Group.pdf
9. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/12_Russian_Federation.pdf
10. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_Evening/44_Canada.pdf
11. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_Evening/30_Pakistan.pdf
12. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_Evening/30_Pakistan.pdf

[Statements 9March Evening/36 China.pdf](#)

13. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/13_USA.pdf

14. <http://fpc.state.gov/232813.htm>

15. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_PM/21_Uruguay.pdf

16. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/04_African_Group.pdf

17. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/10_New_Zealand.pdf

18. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/UNGASS_Statements/UNGASS_Statements_9March_PM/20_Germany.pdf

19. For a summary of the interactive discussion, please visit the CND Blog: <http://www.cndblog.org/2015/03/ungass-special-segment-day-2.html>

20. <http://idpc.net/publications/2014/10/the-road-to-ungass-2016-process-and-policy-asks-from-idpc>

21. For a summary of the interactive discussion, please visit the CND Blog: http://www.cndblog.org/2015/03/ungass-special-segment-day-2_10.html

22. Craig Reinerman & Robert Granfield (2015) *Expanding Addiction: Critical Essays* Abingdon: Routledge

23. For a summary of the interactive discussion, please visit the CND Blog: <http://www.cndblog.org/2015/03/ungass-special-segment-day-3.html>

24. See: <http://www.cndblog.org/2015/03/drugs-and-death-penalty-prioritising.html>

25. For a summary of the interactive discussion, please visit the CND Blog: http://www.cndblog.org/2015/03/ungass-special-segment-day-3_11.html

26. For a summary of the interactive discussion, please visit the CND Blog: <http://www.cndblog.org/2015/03/ungass-special-segment-day-4.html>

27. http://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2010-2019/2013/A_RES_68_196.pdf

28. <http://idpc.net/publications/2015/01/fact-sheet-on-the-proposal-to-discuss-international-scheduling-of-ketamine-at-the-58th-cnd>

29. World Health Organisation (2015), *WHO Expert Committee on Drug Dependence – Thirty-sixth Report*. Technical Report Series 991, Geneva: WHO. http://www.who.int/medicines/areas/quality_safety/36thecddmeet/en/

30. World Health Organisation (2012), *WHO Expert Committee on Drug Dependence – Thirty-fifth Report*. WHO Technical Report Series 973, Geneva: WHO. http://www.who.int/medicines/areas/quality_safety/reports/en/index.html

31. 31 Convention on Psychotropic Substances of 1971, Article 2, para 5. http://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf

32. <http://www.undrugcontrol.info/en/weblog/item/6126-the-ketamine-controversy-continued>

33. See The 1971 Convention, § 22, p. 71.

34. International Drug Policy Consortium (2008) *Report on Proceedings at the 2008 Commission on Narcotic Drugs* London: IDPC; <http://idpc.net/publications/2008/04/report-on-proceedings-at-2008-commission-on-narcotic-drugs>

See also International Drug Policy Consortium (2010) *Report on Proceedings at the 2010 Commission on Narcotic Drugs* London: IDPC; <http://idpc.net/publications/2010/04/idpc-report-2010-cnd-proceedings-document>

35. Commission on Narcotic Drugs (2015) *Advance unedited Report on the 58th CND*. New York: United Nations http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/E2015_28_ADVANCE_UNEDITED_VERSION.pdf

36. Richard Elovich & Ernest Drucker (2008) 'On Drug Treatment and Social Control: Russian Narcology's Great Peal Backwards' *Harm Reduction Journal* 2008 5(23) <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2474597/>

37. Suparna Choudhury & Jan Slaby (2012) *Critical Neuroscience: A Handbook of the Social and Cultural Contexts of Neuroscience* Chichester: Blackwell

38. On the problematic negotiation of the Joint Ministerial Statement, see: IDPC, The 2014 Commission on Narcotic Drugs and its High-Level Segment: Report of Proceedings, June 2014, available at <http://idpc.net/publications/2014/06/the-2014-commission-on-narcotic-drugs-and-its-high-level-segment-report-of-proceedings>

39. TNI calls for a wide-ranging and open debate that considers all options at UNGASS 2016, Statement at the 58th Commission on Narcotic Drugs (CND), Wednesday, March 11, 2015, available at <http://www.druglawreform.info/en/un-drug-control/cnd/item/6148-tni-calls-for-a-wide-ranging-and-open-debate-that-considers-all-options-at-ungass-2016>

40. http://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/V1502190.pdf

41. <http://www.vngoc.org/images/uploads/file/CND%202015/draft%20agenda%204%20CSH%209%20March%202015.pdf>

42. <http://nyngoc.org/wp-content/uploads/2015/03/Civil-Society-Task-Force-full-list-of-members-Feb-2015.pdf>

43. To access the survey, please visit: <http://idpc.net/alerts/2015/04/civil-society-survey>

44. http://www.unodc.org/documents/NGO/2015-04-21_Civil_Society_Task_Force_in_brief.docx

45. <http://idpc.net/alerts/2015/04/civil-society-survey>

46. <http://www.cndblog.org/2015/03/4th-civil-society-hearing.html>

47. <http://www.unodc.org/unodc/en/ngos/DCN13-civil-society-engages-in-ungass-2016-preparatory-process.html>

48. <http://www.cndblog.org/search/label/NGO%20statements>

49. For a full list of NGO statements, please click here: <http://www.cndblog.org/search/label/NGO%20statements>

50. Statement, Ban Ki-moon, Secretary-General's remarks at special event on the International Day against Drug Abuse and illicit Trafficking, New York, 26 June 2013. <http://www.un.org/sg/statements/index.asp?nid=6935>

51. TNI calls for a wide-ranging and open debate that considers all options at UNGASS 2016, Statement at the 58th Commission on Narcotic Drugs (CND), Wednesday, March 11, 2015, available at <http://www.druglawreform.info/en/un-drug-control/cnd/item/6148-tni-calls-for-a-wide-ranging-and-open-debate-that-considers-all-options-at-ungass-2016>

52. http://www.unodc.org/documents/commissions/CND_CCPCJ_joint/Side_Events/2015/15-00524_apprv_ebook.pdf

53. http://dl.dropbox.com/u/64663568/events/CND-side-event_ID-PC-and-partners.pdf

54. <http://www.cndblog.org/search/label/side%20events>

55. <http://www.cndblog.org/2014/03/idpc-side-event-on-scheduling.html>

56. Commission on Narcotic Drugs, Fifty-eighth session, Vienna 9-17 March 2015, Activities of the United Nations Office on Drugs and Crime, Report of the Executive Director, E/CN.7/2015/2*-E/CN.15/2015/2*

57. <http://www.un.org/sg/statements/index.asp?nid=6935>

This report aims to provide an overview of what was discussed during the Special Segment on UNGASS preparations and the regular segment of the 58th session of the CND, including during the various side events and NGO dialogues. Going beyond a functional narrative account, it attempts to offer some analysis of prominent debates and discussions, as well as highlight emerging issues of concern and recurring themes.

Funded, in part, by:



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