

What comes next? Post-UNGASS options for 2019/2020

The UN General Assembly Special Session (UNGASS) on drugs – held in New York in April 2016 – was hailed as an opportunity for the international community ‘to conduct a wide-ranging and open debate that considers all options’.¹ Although the UNGASS was characterised by many shortcomings and disappointments, it was nonetheless a critical moment for global drug policy reform.² Its Outcome Document may not have been the truly open assessment that was envisaged by Colombia, Mexico and Guatemala when they called for the UNGASS in 2012, but it does include some progressive language on several key issues such as human rights, development, gender, proportionate sentencing, access to controlled medicines and alternatives to punishment.³ It was

positive that certain harm reduction interventions were explicitly mentioned such as overdose prevention (naloxone) and medication-assisted treatment, but unfortunate that the term itself once again did not survive the negotiations.

The next opportunity to build on progress made at the UNGASS will be in 2019 when the existing Political Declaration and Plan of Action are up for review. At present, there is nothing formally agreed about what will happen in 2019: it is essentially an open book. This paper outlines some of the key issues and possible scenarios for 2019/2020, drawing lessons from the process that was agreed in 2008 and 2009 when a Political Declaration on drugs was last up for renewal.



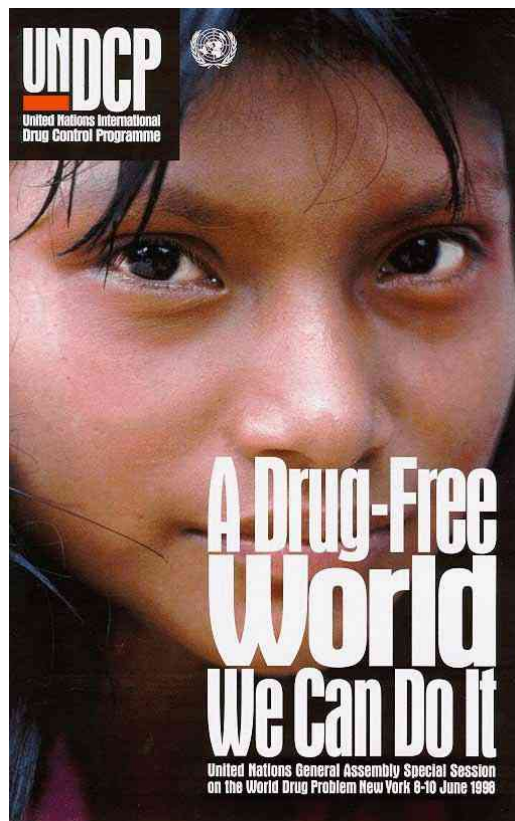
A procedural vacuum

Now that the dust has settled, one serious omission from the UNGASS Outcome Document has become increasingly apparent – the fact that nothing was decided or proposed for the next important UN moment for drug policy in 2019. This is the expiration date of the current *Political Declaration and Plan of Action on international cooperation towards an integrated and balanced strategy to counter the world drug problem*, which was agreed by the UN Commission on Narcotic Drugs (CND) in March 2009,⁴ and subsequently adopted by the General Assembly (Resolution 64/182)⁵. This was the third such Political Declaration, establishing 2019 ‘as a target date for States to eliminate or reduce significantly and measurably:

- (a) The illicit cultivation of opium poppy, coca bush and cannabis plant;
- (b) The illicit demand for narcotic drugs and psychotropic substances; and drug-related health and social risks;
- (c) The illicit production, manufacture, marketing and distribution of, and trafficking in, psychotropic substances, including synthetic drugs;
- (d) The diversion of and illicit trafficking in precursors;
- (e) Money-laundering related to illicit drugs’.⁶

Evidence from the UN itself⁷ shows that these targets are clearly unachievable, least of all by 2019. Yet the existence of a ten-year Plan of Action from 2009 inherently implies a review, renewal or some form of closure in 2019.⁸ The holding of the UNGASS in April 2016 – an event originally unforeseen in the lead up to 2019 – has resulted in somewhat of a procedural vacuum with regards to the mandate, procedure, coordination, location, nature or outcomes of the 2019 event. On the one hand, this means that, in theory, all options are open for consideration, and now is the time to be formulating and refining possible proposals leading up to 2019. On the other hand, such vacuums are most easily filled by ‘more of the same’ but doing so is unlikely to move the debate any further forward than the UNGASS did. The attempts to begin outlining this process in the

drugs ‘omnibus’ resolution⁹ adopted on 23 November in the Third Committee of the General Assembly did not succeed (see Box 3). This is unfortunate as it was a good opportunity to start the process and consolidate some of the progress made at the UNGASS.



Poster for the 1998 UNGASS by UNDCP (now UNODC)

What happened in 2008/2009?

In June 1998, an UNGASS on the world drug problem was held in New York, and member states agreed a Political Declaration that aimed for ‘significant and measurable results in the field of demand reduction by the year 2008’ as well as ‘eliminating or reducing significantly the illicit cultivation of the coca bush, the cannabis plant and the opium poppy by the year 2008’.¹⁰ When this target year came around, the option of convening another UNGASS was quickly discarded. Instead, ‘in order to allow additional time for conducting an objective, scientific, balanced and transparent global assessment’,¹¹ member states decided to divide the review process into three different stages:

1. A thematic debate at the CND in Vienna in March 2008 to discuss the outcomes of an assessment by the UNODC on the global progress against the Political Declaration
2. A subsequent ‘period of reflection’ during which five intergovernmental expert working groups elaborated recommendations¹² on demand reduction, supply reduction, money-laundering and judicial cooperation, eradication of illicit drug crops and alternative development, and precursors and amphetamine-type stimulants¹³
3. The negotiation of the new Political Declaration and Plan of Action, which was adopted at a High-Level Meeting in Vienna in March 2009, structured under three pillars: demand reduction, supply reduction and international cooperation.

The underlying rationale was that the assessment part of the process should not be a token exercise undertaken simultaneously alongside drafting and negotiating a new document. The conclusions of the expert working groups were meant to provide material on which to base the drafting of the new Political Declaration, while civil society also used this period to organise a series of consultations and meetings resulting in the ‘Beyond 2008 Declaration’.¹⁴

Using the 2009 process as a template

The drug policy debates in Vienna have moved significantly forward in the last decade, especially with regards to the renewed attention on public health, human rights and development aspects. Therefore, the next international agreement on drugs should build on this progress, and be more forward looking- than the one agreed in 2009. In this context, the three-stage process could still be a useful model for member states to consider – albeit for refinement rather than replication. In particular, the principle of separate periods to allow sufficient time for evaluation, reflection and negotiation has strong merits.

Box 1: A Three-Stage Proposal for 2019/2020

1. An independent and honest assessment of progress, challenges and failures between 2009 and 2019.
2. A period of reflection and debate, with seven multi-stakeholder working groups to explore the key tensions, make recommendations, and formulate new indicators, focusing on the seven thematic areas covered in the UNGASS Outcome Document.
3. A more transparent negotiation for a new Outcome Document for 2020-2030, aligned with the 2030 Agenda for Sustainable Development.

Step 1: An independent and honest review

2019 would be an opportunity for an evaluation – ideally an independent, or at least a cross-UN process. This should explore the progress made against the last Political Declaration and Plan of Action between 2009 and 2019, as well as provide a genuinely honest and objective assessment of the progress and failures of the global drug control regime – an assessment that failed to materialise at the UNGASS in April 2016. The proposal to establish an expert advisory group for that purpose (a mechanism used for the previous special sessions in 1990 and 1998) put forward by civil society organisations and several member states was blocked.¹⁵ In fact, instead of acknowledging the lack of progress made towards reducing the scale of the illicit drug market, or of the severe negative impacts of repressive drug policies on health, security, human rights and poverty, the Outcome Document praises the ‘tangible progress [that] has been achieved’, and continues to promote the goal of achieving ‘a society free of drug abuse’. 2019 provides an opportunity for member states to redress this and to honestly evaluate the successes and failures of drug control strategies.

Step 2: A period of reflection and debate

Secondly, a period of reflection and debate would be informed by a series of expert groups charged with developing recommendations and new indicators to practically and usefully move the international drug control system forward.¹⁶ Building

upon the UNGASS, this process should reflect the seven thematic areas of the Outcome Document: drugs and health; access to controlled substances; drugs and crime; cross-cutting issues (human rights, youth, children, women and communities); evolving realities, trends, threats and challenges; international cooperation (including UN system-wide coherence); and development. In order to truly reflect coherence across the UN family, such groups should be overseen, convened and/or chaired by relevant UN agencies. For instance, the working group on development could be (co-)chaired by the UN Development Programme, the working group on cross-cutting issues by the Office of the High Commissioner on Human Rights, the working group on international cooperation by the UN Office on Drugs and Crime, the working group on health by UNAIDS and the one on access to controlled medicines by WHO, etc.

In 2008, the ‘intergovernmental’ nature of the working groups meant that only governments could appoint experts, and with only a few exceptions most working group members were in fact government officials. To ensure more open and inclusive discussions, future processes should ensure that civil society, all relevant UN agencies (not only UNODC), academia and affected populations are able to participate in the working groups. The working groups should also be mandated to consider all options, including those that may be outside of the scope of the international drug control conventions. The groups should have a balanced composition, and not be expected to make recommendations through consensus – in acknowledgement of the differing perspectives that exist in the complex arena of drug policy.

Step 3: Drafting a new outcome document

To allow time for these processes to happen, a new ten-year Political Declaration and Plan of Action could then be negotiated on the basis of the recommendations of the seven working groups, and agreed at an event in 2020 – directly aligning with the 2030 Agenda for Sustainable Development.¹⁷ Although the 2020 meeting could quite legitimately be another UNGASS, there is limited political support for this so close to 2016 – not least due to the expense. As a result, something further down the UN hierarchy (such as a High-

Level Meeting of the General Assembly or ECOSOC,¹⁸ or a Ministerial segment of the CND) is far more likely to be agreed.

In 2009, any critical conclusions and language considered as ‘controversial’ from the expert working groups were quickly filtered out, watered down or ignored in the consensus-based negotiations – as was the case for the many progressive submissions from member states, UN agencies and civil society in the build up to the UNGASS 2016.¹⁹ A different approach might therefore be needed to prevent a repeat of the frustrations and disappointments often associated with finding compromises on drug control. Given the current divergence and political tensions between member states on so many drug-related issues, the advantages of other types of document should be considered. For example, a ‘proceedings report’ would reflect the breadth of discussions and capture any disagreements without upholding the façade of global consensus. Alternatively, a report that pictures different perspectives and scenarios for 2020-2030 may also have merits, using a methodology similar to the one successfully used by the Organization of American States in 2013.²⁰ Regardless of the document format, the process for 2020 needs to be far more open and transparent than it was in 2009 and 2016 to allow for genuine debate. The procedure should be set up in such a way that it ensures genuine opportunities for reflection and discussion, and must be structured so that *all* member states can realistically participate.

Box 2. The Book of Authorities

This online resource, re-launched in 2015, catalogues agreed UN statements and language on a selection of topics: human rights, harm reduction, the death penalty, access to controlled medicines, cultivation and alternative development, and flexibilities of the UN drug conventions on alternatives to arrest and imprisonment. In doing so, it aims to show the extent of existing international support for evidence-based drug policies, and to inform international drug policy discussions and negotiations: <http://bookofauthorities.info/>

Key issues for consideration

1. Building upon the Outcome Document language and structure

The CND and the UNGASS Board framed and restricted the UNGASS very carefully so that the 2009 Political Declaration and Plan of Action would not be superseded. In fact, the 2016 Outcome Document explicitly reaffirms ‘commitment to implementing effectively the provisions set out in the Political Declaration and Plan of Action, mindful of the targets and goals set therein’.²¹

Nonetheless, the UNGASS Outcome Document represents the most recent politically agreed language on drugs and was approved by every UN member state in a Special Session of the General Assembly, the highest forum of the international community. As such, this document should not be relegated or side-lined in 2019/2020. The seven-chapter structure, for example, is a vast improvement on the three pillars of the 2009 Political Declaration (demand reduction, supply reduction and money laundering / international cooperation),

Box 3. Negotiations of the drugs ‘omnibus’ resolution

On 23 November 2016, the General Assembly Third Committee adopted the annual drugs ‘omnibus’ resolution.²² The original draft introduced by Mexico incorporated the following proposals:

- a balancing of paragraphs carried over from the UNGASS outcome document
- a request to the Secretary General to take action to strengthen UN system-wide coherence in addressing drug issues
- recognition of the report of the Special Rapporteur on the right to the enjoyment of the highest attainable standard of health, and encouragement to the Human Rights Council to address drug issues²³
- including a paragraph from the outcome document of the 2016 High Level Meeting on HIV/AIDS specifically referencing ‘harm reduction’ programmes²⁴
- calling on the CND to establish seven inter-governmental working groups corresponding to the seven thematic areas in the UNGASS outcome document and to submit a report, through ECOSOC, to the General Assembly at the beginning of its 73rd session on the successes and challenges in the implementation of the recommendations
- calling for a High-Level meeting (HLM) of the General Assembly in the Spring of 2019.

In addition, a paragraph calling for the abolition of the death penalty for drug offences was later proposed.

While many of the paragraphs taken from the UNGASS Outcome Document remained intact in the

- final resolution, many of the proposals did not survive, or were significantly altered over the course of the negotiations. For example, the final resolution places the responsibility to facilitate system-wide coherence not with the Secretary General but with UN agencies themselves, alongside the CND and the UNODC.

- The relevant paragraph encourages UN agencies to identify and implement recommendations in the UNGASS outcome document that fall within their area of specialisation, and for the CND and the UNODC to further increase cooperation and collaboration with the relevant UN agencies. Additionally, the resolution requests the UNODC to include a summary of collaboration and coordination across the UN system on the global efforts to implement the UNGASS recommendations in upcoming World Drug Reports.

- References to the Human Rights Council or the Special Rapporteur, ‘harm reduction’, and the death penalty unfortunately did not survive the negotiations. As for the plans for 2019, the proposal for seven inter-governmental working groups was deleted, and there is now no reference to a High Level Meeting in 2019. As adopted, the resolution encourages the CND to continue its work at the intersessionals on the implementation of the seven UNGASS thematic areas, and to include a new section on progress in its annual report to ECOSOC.

- Given that the General Assembly could not agree on any proposals for 2019, the negotiation on the potential options has been temporarily postponed and will most likely resurface at the CND in March 2017.

and should be maintained for future UN drugs documents and processes as it better reflects the cross-cutting nature of drugs, and links back to the key priorities of the UN system – the protection of health, human rights, human security and development. In many parts, the language from 2016 is also an improvement on 2009 and before – and all efforts must be made not to regress.²⁵ To this end, the reference in the omnibus resolution to follow up on UNGASS implementation in line with the seven thematic areas is to be welcomed (see Box 3) and provides a strong basis for continuing to broaden out the drug policy debate.



Civil society intervention at the Plenary of the UNGASS

2. Improving inclusivity and UN system-wide coherence

The 2008/2009 review, the 2014 mid-term review and the 2016 UNGASS were all led from the CND in Vienna. During the UNGASS process, frustrations over the legitimacy, exclusivity and lack of transparency in Vienna were compounded by the actions of the UNGASS Board, especially in the lead-up to April 2016 – when most of the final informal negotiations took place behind closed doors. This unfortunate opaque and unaccountable process should not be repeated for 2019, and member states should consider putting in place mechanisms to ensure transparency, inclusivity and accountability in the negotiations regardless of where they take place. The fact that the CND has been given a leading role on drug policy matters does not mean it holds a monopoly. The mandates of other branches of the UN system very much intersect with drug policy issues, so close coordination is a pre-requisite for a balanced and comprehensive approach.

The gains that were made during the UNGASS process in terms of engaging other UN agencies²⁶ and a strong presence for civil society²⁷ need to be protected and structurally built in for 2019/2020 from the start. This requires establishing, inter alia:

- Clear criteria about UN system-wide coherence and inter-agency collaboration
- Rules of procedure that genuinely ensure equal access for all UN member states in all stages of the political negotiations (noting that many member states from the Caribbean and Africa, for example, do not have permanent representation in Vienna). For example, other types of international conferences could also be considered: elements could be taken from the modalities used in the Crime Congress in April 2015 in Qatar (for which four regional preparatory meetings were held in Bangkok, Doha, San José and Addis Ababa),²⁸ from the Conferences of the Parties of the Corruption and Organised Crime Conventions,²⁹ or from the International Conference on Drug Abuse and Illicit Trafficking convened by the UN Secretary General in 1987³⁰
- Mechanisms to ensure meaningful civil society participation
- A preparatory committee that embodies those principles and represents all relevant stakeholders.

Crucially, the process should be designed in a way that fully gives a meaningful role to all member states, stakeholders and UN entities in Vienna, New York, Geneva and elsewhere. To this end, there are significant benefits to be gained by a Special Advisor being appointed by the new UN Secretary General, António Guterres of Portugal, to take the lead – as was done for the UN General Assembly high-level plenary meeting on migrants and refugees in September 2016.³¹

Conclusion

Despite mixed emotions among many stakeholders and commentators, the 2016 UNGASS on drugs has definitely moved the debate forward. But, in UN terms, the next major international drug policy event is just around the corner, and preparations will need to start now. At present, there is nothing formally agreed to define what will happen in 2019 or 2020 when the existing Political Declaration and Plan of Action are up for review and/or renewal. In this sense, it is an open book. Conversely, however, in the absence of a well-coordinated strategy and a clearly articulated vision of what 2019/2020 could look like, opportunities could very easily be ended early in the process by seemingly procedural and bureaucratic decisions. Member states may even agree to abandon the idea of negotiating a new political document already so soon after the UNGASS, or to simply extend the existing agreement in a diplomatic manoeuvre.

As we have attempted to show in this briefing note, there are useful precedents to be drawn – both from previous UN drugs fora and from other parts of the UN. These include: the separation of evaluation, reflection and negotiation stages by the CND in 2008 and 2009; the establishment of thematic expert working groups to explore key issues and tensions; the use of the expanded structure of the UNGASS Outcome Document; and the appointment of a Special Advisor by the UN Secretary General to oversee the process and ensure UN system-wide coherence. These would help ensure a more open, inclusive and engaging process that will harmonise global drug policy guidelines and norms with the broader UN principles of human rights, health, security and development.

Box 4. IDPC's 'UNGASS Asks'

Back in April 2015, IDPC's members around the world coalesced around a set of expectations from the UNGASS on drugs.³²

1. **Ensure an open and inclusive debate:** properly and honestly assessing the successes and failures of global drug policies, in a format that includes all UN agencies, scientists and researchers, civil society and those most affected by drug policies
2. **Re-set the objectives of drug policies:** moving away from the objective of achieving a drug-free world, towards identifying how the international drug control regime contributes to broader UN objectives such as public health, human security, social and economic development, and human rights
3. **Support policy experimentation and innovation:** acknowledging the different approaches being used, including cannabis and coca regulation in some jurisdictions, and creating space for countries to explore these options

4. **End the criminalisation of the most affected populations** and ensure proportionality for all drug offences, which includes the abolition of the death penalty, corporal punishment, compulsory detention and other human rights violations
5. **Commit to the harm reduction approach:** supporting the scale-up and funding of harm reduction services, the provision of which is a core obligation of governments to meet international human rights obligations as well as Goal 3 of the Sustainable Development Goals and articles 43 and 46 of the 2016 Political Declaration on HIV and AIDS.³³

Although none of these were fully achieved at the UNGASS in April 2016, some progress was made against all of them. Yet they remain as relevant for 2019/2020 as ever before, and many of the processes and options outlined above can help to achieve these goals, or at least to ensure that they are on the table.

Endnotes

¹ <https://www.un.org/sg/en/content/sg/statement/2013-06-26/secretary-generals-remarks-special-event-international-day-against>

² For more detailed analysis see, for example: <http://idpc.net/publications/2016/09/the-ungass-on-the-world-drug-problem-report-of-proceedings>

³ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/S-30/1

⁴ <https://www.unodc.org/documents/ungass2016/V0984963-English.pdf>

⁵ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/182

⁶ <https://www.unodc.org/documents/ungass2016/V0984963-English.pdf>, p. 36

⁷ In its 2012 World Drug Report, UNODC stated that ‘there may be some 65 million additional drug users by 2050 as compared to 2009/10, or 74 million more by 2100. This would bring the total number of annual drug users close to 300 million persons by the end of the present century’, see:

<https://www.unodc.org/en/data-and-analysis/WDR-2012.html>; in 2015, UNODC mentioned an ‘an increase of 3 million [people who use drug] over the previous year’, see: https://www.unodc.org/documents/wdr2015/World_Drug_Report_2015.pdf

⁸ The 2009 Political Declaration itself calls for a high-level review by the CND to take place in 2014, for ECOSOC to hold a high-level segment on drugs, and for an UNGASS to be held. The mid-term CND review and an UNGASS have taken place, so those requirements are clearly fulfilled. ECOSOC did have an event in July 2014 on “Sustainable Development and the World Drug Problem” which has been said to have fulfilled the third recommendation. However, a 3-hour panel discussion does not really meet the standards of a high-level ECOSOC segment, so that claim could easily be disputed.

⁹ Resolution A/C.3/71/L.10/Rev. 1, International cooperation to address and counter the world drug problem, http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/71/L.10/Rev.1

¹⁰ United Nations General Assembly (21 October 1998), Political declaration, A/RES/S-20/2*

¹¹ CND Resolution 50/12 (2007)

¹² See: CND (2008), Open-ended intergovernmental expert working groups on the preparations for the high-level segment of the fifty-second session of the Commission on Narcotic Drugs

¹³ CND Resolution 51/4 (2008), https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2000-2009/2008/CND_Res-2008-4e.pdf

¹⁴ http://www.vngoc.org/details.php?id_cat=13&id_cnt=59

¹⁵ https://www.tni.org/files/publication-downloads/background_memo_november_ungass_2016_final.pdf. Post-UNGASS, a group of countries (Peru, Belarus, Cuba, China, Indonesia, Iran, Malaysia, Nicaragua, Pakistan, Russian Federation, Singapore and Vietnam) wrote a letter to the Secretary General to express their

objection against using such a mechanism in the preparations for 2019 as well, arguing that ‘the idea expressed by some Member States recently during the UNGASS, of setting up additional preparatory platforms, including ad-hoc expert groups, that might act in parallel with the CND-led process would be counterproductive and will duplicate those efforts’ (UNODC/38/2016, Letter to UN Secretary General Ban Ki-moon, Permanent Mission of Peru, Vienna, 21 June 2016)

¹⁶ A set of new indicators reflecting the 7 thematic areas should then also be incorporated in the Annual Reports Questionnaires (ARQs) to monitor progress

¹⁷ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

¹⁸ The United Nations Economic and Social Council, <https://www.un.org/ecosoc/en/home>

¹⁹ <http://idpc.net/media/press-releases/2016/04/diplomacy-or-denialism-the-language-that-the-ungass-outcome-document-overlooked>

²⁰ http://www.oas.org/documents/eng/press/scenarios_report.pdf

²¹ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/S-30/1

²² Resolution A/C.3/71/L.10/Rev. 1, International cooperation to address and counter the world drug problem, http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/71/L.10/Rev.1

²³ Available at: http://www.unodc.org/documents/ungass2016/Contributions/UN/OHCHR/A_HRC_30_65_E.pdf

²⁴ Available at: http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/06/2016-political-declaration-HIV-AIDS_en.pdf

²⁵ On the human rights language, as an example, see: <https://hrcesses.wordpress.com/2016/05/09/the-human-rights-win-at-the-ungass-on-drugs-that-no-one-is-talking-about-and-how-we-can-use-it/>

²⁶ <http://idpc.net/publications/2016/03/striving-for-system-wide-coherence-an-analysis-of-the-official-contributions-of-united-nations-entities-for-the-ungass-on-drugs>

²⁷ See, for example: <https://stoptheharm.org/>

²⁸ See: <http://www.un.org/en/events/crimecongress2015/about.shtml>

²⁹ See: <https://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html> and <https://www.unodc.org/unodc/en/treaties/CTOC/CTOC-COP.html>

³⁰ See: https://www.unodc.org/unodc/en/Resolutions/resolution_1987-12-07_2.html

³¹ For more information, see: <http://www.un.org/press/en/2016/sga1623.doc.htm>

³² <http://idpc.net/publications/2014/10/the-road-to-ungass-2016-process-and-policy-asks-from-idpc>

³³ http://www.hlm2016aids.unaids.org/wp-content/uploads/2016/06/2016-political-declaration-HIV-AIDS_en.pdf