



INTERNATIONAL DRUG POLICY CONSORTIUM

**THE 2009 COMMISSION ON NARCOTIC DRUGS
AND ITS HIGH LEVEL SEGMENT—
REPORT OF PROCEEDINGS**

APRIL 2009

IDPC BRIEFING PAPER

THE 2009 COMMISSION ON NARCOTIC DRUGS AND ITS HIGH LEVEL SEGMENT— REPORT OF PROCEEDINGS

The International Drug Policy Consortium (IDPC) is a global network of NGOs and professional networks that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces occasional briefing papers, disseminates the reports of its member organizations about particular drug-related matters and offers expert consultancy services to policymakers and officials around the world.

INTRODUCTION

Since the UN General Assembly Special Session on Drugs (UNGASS) in 1998, the drug policy dilemmas facing national governments, and their differences in responding to them, have become more evident. The 2009 Commission on Narcotic Drugs (CND), and its High Level (political) Segment (HLS), was therefore anticipated as a key moment, which would illuminate how the international community would deal with the tricky diplomatic challenge of continuing to profess support for the multilateral system, while meaningfully addressing its problems and weaknesses. This report provides the reader with a summary of what happened at the meeting and an analysis of some of the key discussions and debates. Detailed accounts of the proceedings can be found on the International Harm Reduction Association's (IHRA) CNDblog¹ (<http://www.cndblog.org/>) and the Transnational Institute UNGASS Weblog (http://www.ungassondrugs.org/index.php?option=com_content&task=blogsection&id=1&Itemid=65) with many full country statements and relevant documentation also available on the CND's website <http://www.unodc.org/unodc/en/commissions/CND/index.html>. As noted throughout the text, a number separate IDPC Advocacy Notes have also been produced that accompany this Report.²

As will become clear through reading the pages that follow, we do not consider the conduct of this review to be the CND's finest hour. Moreover, the HLS to review progress since the 1998 UNGASS and set a framework for the next 10 years revealed a clear divide in national approaches to drug control. On one side of the divide stands a growing number of countries that are

choosing to adopt pragmatic evidence-based harm reduction policies, while on the other side stand countries continuing to put faith in a zero-tolerance approach that has failed to produce any significant and sustained result over the past decade. Indeed as a report commissioned by the European Commission³ (EC) for the HLS found "no evidence that the global drug problem has been reduced during the period from 1998 to 2007;" the primary target of the 1998 UNGASS. Thus, it is possible to conclude that despite the diplomatic façade, the Vienna consensus that has done much to paralyse progress in international drug control for decades is now little more than an illusion.

THE HIGH LEVEL SEGMENT AND THE POLITICAL DECLARATION – CONSENSUS, WHAT CONSENSUS?

After six gruelling months of inter-state negotiation on the draft Political Declaration and accompanying Plan of Action, the HLS of the 52nd session of the CND took place on the 11th and 12th of March in the new M-Building of the Vienna International Centre. Following a somewhat surreal rendition of Bobby McFerrin's "Don't worry, be happy" by a local children's choir, the Chairperson of the CND, Ambassador Selma Ashipala-Musavyi of Namibia, opened the proceedings at just after 10am. After comments from the Chairperson of the HLS, the Hon. Dr. Libertina Amathila, Deputy Prime Minister of Namibia, and as with regular segments of the CND, the general debate then got underway with statements from the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics

¹ This was administered in partnership with the IDPC.

² Antonio Costa's Speech to the High Level Segment of the 2009 Commission on Narcotic Drugs, <http://www.idpc.info/php-bin/documents.pl?ID=1000233>, The Political Declaration: A missed Opportunity - <http://www.idpc.info/php-bin/documents.pl?ID=1000231>, Civil society engagement: still not good enough, <http://www.idpc.info/php-bin/documents.pl?ID=1000232> Why is the Outcome of the UN Drug Policy Review so weak and inconclusive? http://www.idpc.info/php-bin/documents/IDPC_Weak_UN_DrugPolReview_EN_0409.pdf

³ A Report on Global Illicit Drug Markets 1998-2007, European Commission, March 2009, see <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/371&format=HTML&aged=0&language=EN&guiLanguage=en>

Control Board (INCB). These were followed by several regional group statements, one from the Queen of Sweden about the Beyond 2008 process, and over the course of the two-day segment, ninety-two national statements plus those from the Holy See, Specialized Agencies, International Governmental Organizations and NGOs, including the Vienna NGO Committee. In a similar fashion to the pattern of regular segments, most national representatives used their speaking slot to state their support of the international drug control conventions and note achievements made by their governments in the field of drug control. In this case, statements related specifically to the targets set at the 1998 UN General Assembly Special Session on Drugs (UNGASS) (See Box 1.) It will be recalled that, at this session, states had agreed to a Political Declaration committing themselves to work towards eliminating or reducing significantly the illicit production of coca, cannabis and opium, the illicit manufacture and trafficking of psychotropic substances as well as achieving significant and measurable results in the field of demand reduction by the then planned review in 2008. The presence on the podium of President Evo Morales of Bolivia, however, gave some indication that the overall tone of the general debate would not be as harmonious as the opening musical rendition. Nonetheless, a degree of disharmony in terms of perceptions of the global drug situation became apparent very early on in the proceedings.

BOX 1– *HLS Country Statements: The good, the bland and the ugly.*

After the opening of the High Level Segment (HLS) as described above, the appearance of Evo Morales, President of Bolivia, provided the early excitement with his call for the removal of coca from the Conventions. In part, the remainder of the HLS produced large numbers of statements in which Member States did little more than recite the familiar endorsement of the Conventions and the struggle against drugs. Such interventions tended to concentrate on the achievements of law enforcement in their country or region, enumerating arrests, prosecutions, tonnages seized and so on. These statements provide evidence, if further evidence were needed, that the period of reflection and review has done little to disturb these countries' presumption that the primary focus of drug control must be the reduction in the size of drug markets. Such statements are available on the UNODC website; they are sufficiently familiar from the annual CND sessions that they need not be quoted here.

Predictably, the question of harm reduction remains a source of division and featured strongly in numerous presentations. Sweden for example, while declaring its

wish to be associated with the EU position (see below) and commending a 'balanced approach', was keen to defend the conventions as "the basis for our collaborations". "There are some proponents of harm reduction," explained Ms Maria Larrson (Minister for Elderly Care and Public Health), "who use the pretext of the tragic HIV epidemic for bringing about fundamental changes to the conventions." The use of the term 'pretext' is significant here; while the overall tone of the Swedish presentation was probably intended to be inspirational, the IDPC would wish to point out that the choice of such a term, signifying as it does the resort to falsity in obtaining one's objective, is an offensive choice, and one which is entirely inappropriate to an occasion of such gravity. Those who judge that changes to the drug control conventions might contribute to the lessening of drug-related harms should not have their sincerity called into question simply because their beliefs differ from those of Ms Larrson or her government. The HIV epidemic constitutes a variable which was not foreseen by those who constructed the conventions; this is, then, a matter of *context*, not of pretext. Also UNODC's legal experts have noted that the existence of new threats like the HIV epidemic require that "governments come up with new strategies to cope." "It could even be argued" they continued "that the drug control treaties, as they stand have been rendered out of synch with reality, since at the time they came into force they could not have possibly foreseen these new threats."⁴

The Japanese State Secretary for Foreign Affairs, Mr Shintaro Ito, offered to share his country's formula for success, which he explained had been praised by the INCB during its last year's visit to Japan: "Dame! Zettai!, which means absolute zero-tolerance to drug abuse, and to achieve the common goal of eradicating drug abuse from the world." It is true that Japanese data on prevalence indicate low levels of usage in the country. The 2008 *World Drug Report* gives the following: for opiates, 0.6% of the population over 15 years of age had ever used; for cocaine, 0.3%; for cannabis, amphetamines and ecstasy the figures were respectively 0.1%, 0.3% and 0.1%.⁵ That said, the Japanese culture of abstinence is dominant yet atypical, and great care should consequently be taken about drawing inferences from these figures and, in particular, from attempting to generalize from them.

4 E/INCB/2002/W.13/SS.5. *Flexibility of treaty provisions as regards harm reduction approaches*, UNDCP Legal Affairs Section, September 2002. Available at: http://idpc.info/php-bin/documents/UN_HarmReduction_EN.pdf

5 *World Drug Report* 2008, p. 273-280. Of these figures, only that for cannabis refers to annual prevalence.

While many nations remain in denial regarding both the inability of the UNGASS policies to achieve their stated objectives and the Political Declaration to acknowledge it, there were a number of statements that were prepared to face these failures head on. The contribution of the Czech Republic, made on behalf of the EU, set the standard here, recognizing as it did that “the aims and objectives as set out in the existing UN declarations, action plans and measures related to the world drug problem were ambitious and that the goals have not been achieved, either in terms of measurable reduction or by any proven containment of the use of any illegal drug globally within the last ten years.”

The disappointment of many countries was, however, perhaps best articulated by the head of the German delegation, Ambassador Rüdiger Lüdeking, in his national [statement](#). He openly criticised the complacency of the review process: “The goals and targets set out by UNGASS 98 have not been met,” he said. “Consumption of illicit drugs and psychotropic substances has not been significantly reduced. In many parts of the world, it has even considerably increased. The same applies for the cultivation and supply of illicit drugs which have not decreased globally either in spite of all efforts.” “We would have liked to see also some new principles reflected in this Draft Declaration”, he continued. “I think in particular of the principle of system-wide coherence, the principle of proportionality and the principle of evidence based policy in all fields of counter-narcotic policy. In our view, the new Draft Political Declaration could and should have been more future-oriented and more courageous than it is now.”

[Brazil](#) stressed that the aim of a world free of drugs has proven to be unattainable and in fact has led to unintended consequences such as the enlargement of

the imprisoned population due to drug related crimes, increase in violence related to illegal drug market, increase in homicides and violence among the young population and social exclusion due to drug use. They stressed the need for recognition of and moving towards harm reduction strategies and securing the human rights of drug users.

The [United Kingdom](#) said that “we would like to have seen a bolder document. I could cite a number of examples, but will cite one. Paragraph 20 refers to the link between drug misuse and HIV/AIDS. A key technique in preventing the spread of HIV/AIDS is known as harm reduction – used in the sense of the provision of clean injecting equipment

to persons who are addicted to injecting drugs. Yet those words appear nowhere in the paragraph or anywhere else in the document. This is obviously at variance with other UN communications on the subject of HIV/AIDS – including those related to the UN Millennium Goals that are mentioned in this declaration itself. This sends confusing and damaging messages to Governments and agencies seeking to grapple with this disastrous epidemic.”

The Dutch also joined the chorus of opposition, pointing out that “The scientific debate on whether harm reduction is effective is now at an end, there is enough evidence. But the political debate continues. I find it regrettable that although WHO and UNAIDS fully embrace harm reduction, the CND does not. This political debate distracts us from all those individuals working hard on the ground who tackle the immediate problems of real people. I cannot help but notice remarkable similarities between the 1998 and 2009 declarations, they are almost interchangeable. I earnestly hope that member states and NGOs will continue to develop harm reduction measures and achieve an entirely balanced overall approach.”

The speech of the UNODC Executive Director

Drawing heavily upon a recent UNODC discussion paper, ‘Organized Crime and Its Threat to Security,’ the Executive Director of the UNODC, Mr. Antonio Maria Costa, used his speech to highlight the threat posed to communities and societies by the growing wealth and power of criminal organizations that derive profits from the trade in controlled drugs. This approach built upon one of the ‘unintended consequences’ laid out in Mr Costa’s speech at the 2008 CND and for the most part is a welcome addition to the international policy discourse. Yet, as we discuss in more detail in a separate briefing paper (Antonio Costa’s Speech to the High Level Segment of the 2009 Commission on Narcotic Drugs, <http://www.idpc.info/php-bin/documents.pl?ID=1000233>), it would have been more constructive if Mr. Costa had given more prominence to some of the other areas of collateral damage of the current international drug control system that also cause enormous harm to society. For instance, the stigmatization and social marginalization of people who use drugs and ‘policy displacement’ – the expenditure of huge amounts of public resources that could be better invested elsewhere.

Moreover, while the Executive Director’s speech, and the paper upon which it was based, presented some interesting and constructive arguments that should be considered by member states, the strength of his arguments and analysis were sometimes undermined by unnecessary rhetorical flourishes and dubious use

of data and evidence. For example, on the former point, it is hard to see how criticism of those favouring drug regulation and control by arguing that such logic would lead to calls of the legalization of illegal activities such as paedophilia and gun-running generates constructive dialogue. While undoubtedly containing some political utility for certain audiences, the same can be said for the statement “Our budget is smaller than New York’s sanitation department, *yet we are expected to collect the garbage of the world*” (Emphasis added.) Furthermore, having once again re-framed any measurement of the effectiveness of the current system in terms of a century of international drug control, Mr. Costa’s statement that “humanity has made measurable progress” served to emphasize the different views of those within the drug control apparatus. Indeed, as noted on the CND blog, the data put forward in the very next statement appeared to conflict with the Executive Director’s largely positive reflections upon ‘measurably lower drug supply.’ Despite robustly defending the extant drug control regime (See INCB section below), the President of the INCB, Prof. Hamid Ghodse, noted that since the time of the special session in 1998 global cultivation area of the coca leaf only declined by about 5%. Additionally, Prof. Ghodse pointed out that while during the same time period opium poppy cultivation in South East Asia had dropped by 81%, it had nearly tripled in Afghanistan.

Evo Morales’ speech

The statement of the President of Bolivia, however, overshadowed such differences in perspective between the UNODC and the INCB (See box 2.) Indeed, Evo Morales’ call for the coca leaf to be removed from the Single Convention on Narcotic Drugs represented the first ever truly open challenge by any nation state to the existing structure of the international drug control system. He also called for the derogation of the clauses of Article 49 of the 1961 Convention that calls for the elimination of coca chewing within 25 years. As discussed in more detail below, basing his argument on a belief of the original misclassification of coca in 1961, the President informed the floor that Bolivia would be starting formal moves to remove it from the existing framework because the coca leaf in its natural state is not harmful to human health. Mindful of Bolivia’s isolation on the issue and of the INCB’s reluctance to move towards the resolution of ambiguities regarding coca within the conventions,⁶ Morales’ statement triggered the beginning of what will certainly be a fascinating and politically problematic undertaking.

BOX 2 – *Let Me Chew My Coca Leaves*⁷

As the only head of state to attend the high level segment, Bolivian President Evo Morales gave the first national statement; as noted, his presence illustrated the stark differences in approach to drug policy issues among member states and got the meeting off to a lively start. Brandishing a coca leaf, Morales announced that he came to Vienna to correct the historical errors in the treatment of the coca leaf in the 1961 Single Convention on Narcotic Drugs. He announced that the following day, the Bolivian government would be presenting a letter to UN Secretary General Ban Ki-Moon requesting the abrogation of clauses 2e and 1c of Article 49 of the 1961 Single Convention.⁸ The first clause calls on the elimination of the tradition of chewing coca leaves within 25 years of the adoption of the Convention. The second clause allows a member state to authorize temporarily coca chewing, but only prior to the termination of the 25-year period.

President Morales pointed out that it has been almost 50 years since the 1961 Convention went into effect, yet coca consumption continues unabated. Historical evidence has shown that even about 3,000 years ago, coca leaf chewing was part of the local culture. “How is it possible,” Morales asked, “that we would be able to eliminate coca growing in 25 years” knowing this history and that “the coca leaf does not harm human health?” He pointed out that coca chewing is prevalent today in Bolivia, Peru, northern Argentina and Chile as well as in some regions of Colombia. “If this mistake is not corrected, we should all be considered criminals under international law... you would have to eradicate those who consume the coca leaf.” Popping the coca leaf into his mouth and chewing it, Morales then challenged Mr. Costa to have him arrested, to much applause.

Throughout his presentation, Morales reiterated that the Bolivian government strongly condemns drug trafficking and is not asking for unlimited coca production. On the contrary, the government’s strategy is to allow coca production for licit uses, while limiting its production and preventing its deviation to the illicit market: “It would be irresponsible to say that there should be free coca leaf cultivation.” He clarified, however, “that there will never be zero coca.” He spoke of the rights of indigenous peoples, pointed out that the coca leaf has now been enshrined in

⁶ See *The International Narcotics Control Board: Current Tensions and Options for Reform*, IDPC Briefing 7, February 2008 and *Abolishing Coca Leaf Consumption? The INCB needs to perform a reality check*, TNI Press Release March 5, 2008

⁷ An opinion piece with this title and authored by Bolivian President Evo Morales was published in *The New York Times* on 14 March 2009 and in the *International Herald Tribune* on 19 March 2009.

⁸ Available in Spanish at <http://www.ungassondrugs.org/images/stories/cartaevo.doc>

the Bolivian Constitution and elaborated upon its beneficial and cultural uses.

Finally, Morales called on the representatives of the member states to support the request for removal of the coca leaf from Schedule 1 of the 1961 Convention, where it is classified along with cocaine as a dangerous narcotic and is subject to all control measures. (At the previous session of the CND in April 2008, the Bolivian government also announced that it would be formally making this request.⁹) While recognizing that the coca leaf contains a small amount of alkaloids used in the production of cocaine, Morales proposed that the coca plant be replaced with cocaine base, which is the first stage in the production of cocaine. The Bolivian government is planning to submit a formal request along these lines to the UN Secretary General in the coming months, a request that needs to be assessed by the WHO Expert Committee. The request for the abrogation of clauses 2e and 1c of Article 49 of the 1961 Convention will probably be taken up by ECOSOC, perhaps as early as its May 2009 meeting, but countries will still have 18 months time to file any objections.

To make his case, President Morales met with various delegations and also spoke at an event hosted by the IDPC, and attended by NGO and government representatives, where he reiterated the points described above. His appearance dominated much of the initial press coverage of the high-level segment.

⁹ See http://www.ungassondrugs.org/index.php?option=com_content&task=view&id=189

Harm Reduction and the Group of 26

While we will have to wait a number of years to see what happens with Bolivia's attempts to alter the hard law of the drug control conventions, the business of agreeing soft law in the form the Political Declaration and the Plan of Action further revealed, and in many ways widened, what have been called cracks in the Vienna consensus.¹⁰ Following the many months of arduous negotiation, (See successive editions of IDPC UNGASS News for an overview of this process) and agreement on many issues, it had become clear that the issue of harm reduction was, even more than in previous CND sessions, going to be a point of contention at the HLS. A number of factors, including a split in the EU's position on the use of the term harm reduction within the

Political Declaration and only a slight alteration in the position of the US after the change of administration in Washington ensured that a resolution of the issue would have to be found at the HLS itself. Indeed, the inevitability of this scenario was almost guaranteed after the chair of the inter-sessional meetings, Ambassador Selma Ashipala-Musavyi, took an impromptu straw poll on the issue during a meeting in early March and, despite the lack of a consensus, ruled that the term would not be included: even as a footnote (See box 3)

Within the general debate of the HLS, a significant number of states had expressed their support for a range of harm reduction interventions as crucial components within a balanced approach. It was in this context, and with an awareness that a series of coalition building meetings were taking place around the margins, that participants in the HLS expectantly awaited the close of the segment and the official adoption of the Political Declaration and Action Plan. It is fair to say that both documents were disappointing and, despite strong inclusion of human rights issues, in many ways these documents represented little improvement upon those agreed upon at the UNGASS. Perhaps this was no great surprise bearing in mind that the 1998 Plan of Action had been used as a template for the 2009 document. Despite the repeated contention in Mr Costa's statement that health should be the priority of the drug control system, both documents are noticeably silent on the issue; the existence of a 'right to health' could not be agreed upon, health is mentioned only four times in the Political Declaration and HIV only once in the 34 pages of the Plan of Action. (For further discussion see *The Political Declaration: A missed Opportunity* - <http://www.idpc.info/php-bin/documents.pl?ID=1000231>)

A lack of enthusiasm for the texts among the NGO's present was aggravated, however, during the second day of the HLS when alert observers noticed small but significant inconsistencies between the agreed draft text of the Declaration and the version circulated by the secretariat as the final draft for CND and then Economic and Social Council (ECOSOC) approval. Having been informed that the changes in the text were nothing more than simple typing errors by the Secretariat and were to be reversed (See Box 3) those assembled waited for the formal close of proceedings late in the afternoon of March 12th.

This was initially an anticlimactic moment with the Chairperson quickly wrapping up events and successfully projecting the business as usual approach embodied within the texts themselves. Nonetheless, having waited for the Chairperson's gavel to come down on the adoption proceedings, the German Ambassador, Mr. Rüdiger Lüdeking, then spoke out on behalf of a number of member states who wanted their position on the issue of

¹⁰ *Cracks in the Vienna Consensus, The UN Drug Control Debate*, WOLA Drug War Monitor, Martin Jelsma and Pien Metaal, January 2004. <http://www.ungassondrugs.org/images/stories/wolabrief.pdf>

harm reduction to be noted. Representing a significant group of 26 state parties to the drug control conventions¹¹, Ambassador Lüdeking formally declared that these nations wished to interpret the term “related support services” as adopted within the Political declaration and the Plan of Action as “including measures which a number of states, international organizations and NGOs call harm reduction measures.” He also asked for the statement to be annexed to the report of the meeting. Predictably, a number of other countries, including The Russian Federation, Colombia, Cuba, the USA, Sri Lanka and Japan, quickly challenged this interpretative statement and requested that their positions be noted in the record of the meeting. Within their own statements, these states strongly objected to the group intervention after what they argued had been a consensus adoption of the documents and the principles contained therein. The Russian Federation stressed that the action of the group could have far-reaching repercussions for the international drug control system. In terms of the everyday functioning of member states such a position might be dismissed as hyperbole. That said, the notion that consensus functioning of the CND remains intact on all issues is now clearly little more than an illusion. Disagreement on the issue of harm reduction is certainly not, as Mr. Costa stated in his closing speech, little more than a storm in a teacup.

BOX 3 – *The Role of the Chair and the Secretariat*

It is important that the leadership of these politically sensitive debates are scrupulously objective and procedurally correct. In practice, the IDPC has observed that many of the decisions and actions of the Chair and secretariat during this review process seem to have been designed to stifle genuine review or the possibility of reform. These include:

- The decision to base the structure of the entire process on the headings of the action plans agreed in 1998, which automatically locked the CND into repeating a structure that focussed mainly on law enforcement operations (4 of the original action plans addressed different forms of supply reduction, and one addressed demand reduction, with no action plan at all for tackling the health and social consequences of drug use).
- The decision, strongly defended throughout by the Chair, to complete debate on the annex to the declaration, before even circulating a draft of the main body of the text. This

meant that all the key principles, and the most controversial issues, had to be debated in the last 7 weeks of the process, and inevitably many important decisions were simply rushed through at the last minute. Indeed, many of the key changes to the text were agreed at a closed meeting in Vienna on March 2nd, attended by representatives from less than 40 countries. Other countries were simply sent a copy of the amended text, and given no further opportunity to comment before arriving to adopt the declaration at the high-level meeting.

- After each round of negotiations, the secretariat is responsible for taking all the comments made, and producing an amended draft in accordance with member states wishes. On several occasions, these drafts emerged with forms of language on controversial issues that were not directly reflective of member states’ recollection of the debates. For example, several text proposals formally submitted by a member state on harm reduction were simply not included in the next draft for debate and, early in the process, a form of words proposed on the issue of better access to essential medicines was significantly weakened in the next draft that emerged.
- The worst case of this interference in drafting, however, occurred in the final days of the review. Throughout the 6 months of the negotiations, the issue of harm reduction had been the most controversial, with repeated attempts to find language that could be accepted by all member states. As this process developed, we became increasingly concerned that the secretariat and Chairs of the CND were not playing an objective and unbiased role, and these fears were confirmed by two incidents:
 1. At many points throughout the negotiations, those countries in favour of strong references to harm reduction were in a clear majority, but the Chairwoman insisted that no text could be agreed unless there was complete consensus, allowing single countries to veto text agreed by everyone else. At the meeting on 2nd March, however, with no advance warning, she called for a straw poll on the inclusion or not of a footnote explaining that the term “related support services” used in the Political Declaration, for a number a countries, international agencies and NGOs, includes what they refer to as “harm reduction measures”. When the ‘vote’ was 13 to 12 to remove the reference, she announced that this was the final decision on the issue, effectively removing all reference to harm reduction from the declaration.

¹¹ Australia, Bolivia, Bulgaria, Croatia, Cyprus, Estonia, Finland, Georgia, Greece, Hungary, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, St Lucia, Slovenia, Spain, Switzerland the United Kingdom and Germany.

That controversial decision prompted the group of 26 countries to formally declare an 'interpretive statement' about harm reduction when the Political Declaration was adopted at the high level meeting ten days later.

2. Following this meeting, the only text in the declaration that focused on HIV prevention was a more general reference to the need for comprehensive programmes to tackle HIV/AIDS, in paragraph 20. The text agreed by member states was 'universal access to comprehensive prevention programmes, treatment, care and related support services', the exact words being important as they directly reflected the UNAIDS prevention strategy. Amazingly, when the secretariat distributed the final text of the declaration for adoption at the high level meeting, the words 'comprehensive prevention programmes' (meaning efforts to prevent the transmission of HIV, as described by UNAIDS) had been changed to 'comprehensive **drug abuse** prevention programmes' (meaning efforts to stop people using drugs). The meaning of the sentence had been totally changed by the secretariat, after having been approved by member states. When challenged on this, the secretariat claimed that this was an innocent 'editorial mistake'. We do not accept this explanation – after months of wrangling over the exact wording of that paragraph, the secretariat must have been acutely aware of the implications of any change to the wording, so explaining this away as an administrative oversight is just not good enough. At the last minute, the 'editorial mistake' was corrected and the original wording restored.
3. Finally, the secretariat and Chairwoman were responsible for facilitating the appropriate level and nature of civil society involvement in the high level meeting. Despite extensive efforts by NGOs to engage with the process (through the 'Beyond 2008' and other initiatives) the secretariat regularly acted as a barrier to such involvement. We give further details of examples of these obstructions in a separate briefing paper [http://www.idpc.info/php-bin/documents/IDPC_Weak_UN_DrugPolReview_EN_0409.pdf]. At the high level meeting itself, several NGOs made formal requests to speak in the plenary, in accordance with ECOSOC rules. Despite initial acceptance from junior officials that these requests were procedurally valid, we were told that,

following consultation with senior officials and the Chair, they were being rejected. With support from the Vienna NGO Committee, the IDPC pointed out that NGOs had a right to be included on the speakers list, even if time constraints meant that the Chair was unable to call them to the podium. In the event, the plenary session did run out of time, but the Chair pointedly announced when closing the plenary that she had no more speaking requests on her list – either the secretariat had refused to pass on our requests, or the Chair had decided to publicly ignore them. The objectivity of the secretariat is also called into question by the fact that the head of the UNODC branch within which it is located has been a temporary secondment to the UNODC from the US Department of State, whose officials have been very vocal over the years at the CND in support of law enforcement based approaches, and against harm reduction.

NGO INVOLVEMENT - A CONSTRUCTIVE CONTRIBUTION FALLING ON DEAF EARS?

The IDPC and its members used the progress made at last year's CND as a springboard to provide meaningful and constructive contributions to the work of decision makers in the UNGASS process. As a result the 2009 CND witnessed unprecedented NGO participation and collaboration with ECOSOC accredited organizations working together to ensure that civil society representatives affected by drug policy issues and able to contribute experience, knowledge, and evidence were able to attend the event. According to the UNODC's civil society liaison officer, some 200 NGO delegates, representing 65 official organizations, attended this year's proceedings.

Compared with previous years, an increased number of countries included NGO or academic experts in their official delegations¹² and in the preparations of their national statements – many of which recognised the contributions of NGOs. Even countries like the USA, historically closed to involving NGOs, held informal consultations with civil society representatives in the margins of the High Level Segment and graciously invited all NGOs to a reception at the Ambassador's residence (See box 4). Many national delegations also attended bilateral meetings with NGO representatives and it is hoped that the relationships begun this year will continue to develop.

¹² IDPC estimate is : St Lucia, New Zealand, The Netherlands, the United Kingdom, Georgia, Kirgizstan, Ukraine, Albania, Mexico, New Zealand, Lithuania.

Although no civil society speakers were allotted time to speak on behalf of specific NGOs at the HLS, as noted above, the conclusions of *Beyond 2008* were given prominence in the statement from the Queen of Sweden and by Michel Perron, Chair of the *Beyond 2008* Steering Committee. Nonetheless, as further discussed below, the regular CND session saw NGOs seize on the opportunity created by the post-HLS lull to deliver provocative and weighty interventions in the plenary sessions. Furthermore two slots per Round Table were allotted to NGO representatives during the four roundtable discussion running parallel to the HLS general debate.¹³ Here interventions were made by IDPC, CADCA, Human Rights Watch, IHRA, Mentor, CEDRO, the International Federation of NGOs for the Prevention of Substance Abuse, San Patrignano, and TNI. Unfortunately, NGOs, apparently considered to be the least important contributors to the debates, were last on the roster to speak and in the case of the Demand Reduction Round Table, this meant that the important intervention of CEDRO, the only speaker to counter the suggestion of surgical solutions to drug dependence and the moving intervention of YouthRise, were both made without interpretation. The applause that followed these speakers, however, belied the rank they were assigned in the proceedings. Similarly, Martin Jelsma, on behalf of TNI in the Supply Reduction Round Table¹⁴ was one of the only participants throughout the whole proceedings to respond to President Morales' request to amend the drug conventions in relation to coca leaf. He also highlighted the first Global Forum of Producers of Crops Declared to be Illicit, that took place in Barcelona in January.¹⁵ Their statement was circulated among delegates. It is fair to say that what little debate and substance there was came mostly from civil society participants.

Some formal space was given to NGOs in the margins of proceedings not least through the work of the Vienna NGO Committee who provided technical assistance to NGOs. The Queen of Sweden held a reception on the eve of the HLS to which a number of civil society representatives were invited to mingle with national delegates and UN officials and she also hosted a side event on the first day on the theme of 'NGO Contributions to the High Level Segment' supported by Sandeep Chawla, the Director of the Division of Policy Analysis and Public Affairs of UNODC. A room was designated for NGOs (albeit in a different building

to the main event during the HLS) and NGOs were able to use the press briefing room to deliver a civil society press conference to the media. Beyond this, Mr Costa held a dialogue meeting with NGOs during which he fielded some awkward questions. Here the Executive Director noted that he was afraid of neither difficult questions nor difficult answers. One wonders, however, exactly what Mr. Costa thought would happen at the meeting. Judging by the number of security staff that accompanied him, a greater number than at any other point during this year's CND, the NGO community is apparently to be approached with extreme caution. The unusual spectacle of an agitated Dutchman, in this case Dr. Fredrick Polak of ENCOD, rising from his seat to ask a secondary question on cannabis prevalence in the Netherlands, no doubt justifies the presence of what many considered to be an excessive number of burly security personnel. The press were not allowed to attend the meeting.

A full and varied programme of civil society organized and co-sponsored satellite events ran parallel to the formal proceedings of both the High Level and Regular segments of the CND.¹⁶ Additionally a number of NGO's distributed recent publications, prominent among them was *At What Cost? HIV and Human Rights Consequences of the Global 'War on Drugs'* by the International Harm Reduction Development Program of the Open Society Institute's Public Health Programme.

BOX 4 – *The US delegation in Vienna*

Although the U.S. delegation maintained until the bitter end its hard-line opposition to any reference to harm reduction efforts in the political declaration, there were signs at the 52nd session of the CND and the high-level segment that some changes in U.S. drug policy are emerging. During the negotiations for the political declaration, advocacy efforts by IDPC member organizations and colleagues in the United States resulted in the Obama administration sending new instructions to its team in Vienna. While maintaining opposition to harm reduction, the new administration endorsed needle exchange programmes to reduce the transmission of HIV/AIDS and other blood-borne diseases. In contrast to past CND sessions, U.S. statements and

13 These were (a) Current and emerging challenges, new trends and patterns of the world drug problem and possible improvements to the evaluation of the system Item, (b) Strengthening international cooperation in countering the world drug problem using shared responsibility as a basis for an integrated, comprehensive, balanced and sustainable approach in the fight against drugs through domestic and international policies, (c) Demand reduction, treatment and preventive policies and practices, (d) Countering illicit drug traffic and supply, and alternative development.

14 See: Round Table on Alternative Development, TNI weblog, March 15, 2009 (http://www.ungassondrugs.org/index.php?option=com_content&task=view&id=261) and the statement by Martin Jelsma (http://www.ungassondrugs.org/images/stories/Statement_Round_Table_D_TNI_Final.doc)

15 For more information on the Global Forum of Producers of Crops Declared to be Illicit and its final declaration, http://www.ungassondrugs.org/index.php?option=com_content&task=view&id=236

16 The main NGO events were Tackling the Consequences of Drug Markets and Drug Use (IDPC), Question and Answer Session with the President of Bolivia (IDPC), A new Role for Law Enforcement (IDPC), Undoing a Decade of Neglect. International Drug Policy and Access to Essential Medical and Harm Reduction Services (IHRA, IAS, HRW, YouthRise, IDPC), The Findings of the Beckley Foundation Cannabis Commission (The Beckley Foundation), Essential Medicines: Balancing Adequate Access and Sufficient Control (WHO with Swiss Federal Ministry of Health, the Vienna NGO Committee and Human Rights Watch), The War Against Drugs: the Reality from the Andes, and Pointers to a New Policy Regime (Fundación par las Relaciones Internacionales y el Diálogo Exterior, co-sponsored by the Andean Development Corporation), Best Practices in Demand Reduction: What Works in Creating Safer Communities (Community Anti-Drug Coalition of America), Reviewing our Progress: Global Success in Reducing Drug Use (Drug Free America Foundation).

interventions were more moderate in tone. Perhaps most significantly, the U.S. government hosted a reception for the NGO community and agreed to meet with progressive U.S.-based NGOs on two occasions. In the plenary discussion of the CND's provisional agenda for its 53rd session, the U.S. delegation – apparently in response to one of the requests made by U.S. NGOs -- asked that the agenda incorporate the issue of ‘improving availability to essential medicines,’ including ensuring “availability of adequate amounts of opiates for medical and scientific purposes, especially for the relief of pain.” As officials responsible for drug policy in the Obama administration are not yet in place, it will still be some months before new policies are forged. Perhaps by the next CND, US officials will be able to play a more constructive and forward looking role.

Direct action and reporting organised by the Hungarian Civil Liberties Union and INPUD, YouthRise and Students for Sensible Drug Policy, arguably contributed to such an outreach process. On queuing to enter proceedings on the first day of the HLS, no delegate could miss the respectful but articulate and rousing speeches and representations on the negative consequences of international drug policy. In formal terms, the United Kingdom, by including Mat Southwell, a user-representative from INPUD, on their official national delegation was a somewhat isolated champion of the participation rights of affected populations.

The Political Declaration welcomes the ‘important role played by civil society’ and states that representatives ‘where appropriate, should be able to play a participatory role in the formulation and implementation of drug demand and supply reduction policy’. This is certainly progress. Nonetheless, it also has to be recognised that this progress was in many ways driven by civil society itself. This year's CND saw a number of cases where many member states and some parts of the UN drug control apparatus remained reluctant to engage with the work of NGOs. For example,

- In the processes leading to the HLS and the draft political declaration and plan of action there was only cursory reflection of the Beyond 2008 conclusions.
- There was no formal response to the request for a civil society hearing and market place and no scheduling for NGO interventions in the plenary session of the HLS apart from the five minutes allocated to the chair of the Beyond 2008 NGO Committee initiative; any other space that was to be allotted to civil society was unclear right up to the closing of proceedings.
- The rigmarole of gaining accreditation to attend remained difficult to navigate.
- NGO representatives were regularly searched and detained by security guards if they sought to bring invitations for satellite events or information for distribution into the building.
- Once in the building, NGOs had to scabble about for table space to distribute information often coming back to find their materials had been thrown away by organisers.
- Throughout the regular segment there remained uncertainty as to whether or not the Committee of the Whole was a closed session and on occasion NGO representatives were initially denied access. (For further discussion on these issues see the IDPC Advocacy Note, Civil society engagement: still not good enough, <http://www.idpc.info/php-bin/documents.pl?ID=1000232>)

In light of these struggles, when Mr Costa talked in his opening speech disparagingly of the ‘pro drug lobby’,¹⁷ NGO delegates naturally wondered if he was talking about them and although Mr Costa said ‘no’ when asked if this was the case, civil society will perhaps reserve judgment until the commitments of the Political Declaration are actioned. However, the importance of civil society in bringing expertise, experience, and partnerships for implementation can no longer be doubted and the hard work must continue. But inspiration is available. Speaking at an IDPC organised side-event, Evo Morales, President of Bolivia, spoke of being a guest of NGOs at former CNDs, too poor to eat, he had relied on his hosts’ breakfast buffet to get him through the day – now he has a space at the table.

RESOLUTIONS – BUSINESS AS USUAL ON THE SURFACE.

The Committee of the Whole (COW or “the Committee”) is the site where the Member States’ resolutions are tabled and debated prior to their introduction at the plenary. Resolutions are often deliberated at length during this phase, with text, words and phrases being contested in minute detail. Conflicts over countries’ philosophical and policy positions may be discerned beneath the formalities of diplomatic exchange, and thus the work of the Committee of the Whole provides considerable insight into the relations obtaining behind the consensus which CND presents to the world’s media. On the surface, it was “business as usual”. However, with the global consensus on the international drug

¹⁷ The phrase featured both in Mr Costa's opening speech to the plenary and in his paper, “Organized Crime and its Threat to Security: Tackling a disturbing consequence of drug control” E/CN.7/2009/CRP.4 Available at <http://www.unodc.org/unodc/en/commissions/CND/session/52.html>

control regime coming under increasing strain during the 10 year UNGASS review, this was a particularly interesting juncture at which to witness the Committee in action.

The Chair

This year's Chairperson was Ambassador Ali Asghar Soltanieh of Iran. Mr. Soltanieh conducted the proceedings with a briskness which delegates at times found disconcerting; he succeeded, however, in avoiding the kind of procedural log-jams that afflicted last year's COW and resulted in extra, evening sessions being scheduled. Indeed, this year's business was completed on Thursday, a day early. He also demonstrated considerable humour and a degree of theatrical flair—a charm that was unfortunately marred by his rather terse treatment of certain delegates, particularly those representing other UN agencies (see below).

Trafficking and security

Continuing the theme set by the Executive Director in his opening speech to the Plenary, drug trafficking and its associated problems played a dominant role in the tabling of Member States' resolutions, with seven out of fifteen resolutions being directly concerned with this issue.

The first resolution to be discussed at the COW was proposed by Namibia on behalf of the African group of Countries, and was entitled 'Promoting international cooperation in addressing the involvement of women and girls in drug trafficking, especially as couriers'. There was general support for the resolution, and the prime debates concerning the form of language were driven by an attempt to convey the often coerced and unwilling character of women's involvement in trafficking, and to highlight the gender specificities in play. As noted above, the theme of the corrosive effects of the illicit drug trade featured strongly in several resolutions. This first resolution demonstrated some of the more nuanced and sophisticated policy thinking to appear in the discourse on trafficking and security, drawing a clear distinction between females working as couriers, who are often driven by poverty (itself exacerbated by unequal access to labour markets) and the powerful organized crime groups in whose service they risk carrying illegal drugs. At the same time, it is disappointing to see the preambular paragraphs invoke the ever-receding UNGASS utopia of "a society free of drug abuse." That said, this is a subtle and welcome, if still unsatisfactory, shift in language from the previous phraseology of a "drug free society": a term that existed within the 1998 Political Declaration and did not achieve sufficient support to be included within this year's Declaration.

Other resolutions focused on trafficking included calls for the strengthening of law enforcement capacity in the transit countries surrounding Afghanistan, and two similar resolutions with

respect to East and West Africa respectively. All transit countries were recognized to be suffering from specific problems relating to that status, and Member States were urged to extend further resources, material, technical and financial, in order to assist them in their efforts to resist the incursions of organized traffickers. The Caribbean was also the subject of a resolution to follow-up on last February's Ministerial Conference on drugs transiting and being used in the region, as well as another resolving to reinforce cooperation against trafficking, through the Caribbean and West Africa states, of cocaine bound for Europe.

Cannabis- A thorny perennial?

At last year's CND, a resolution had been tabled which criticized the "leniency" of certain Western countries toward cannabis. There were protracted struggles over the wording of that resolution, which led to its being rendered fairly neutral in the name of consensus; in the end, only the procedural delays allowed it adoption without further struggles on the final evening session. It was widely anticipated that an equivalent resolution would be proposed this year.

In the event, there were no resolutions dealing with cannabis as such, despite the fact that a number of country statements and asides (see Box 1) made it clear that many of those countries where cannabis has historically been produced, and where indigenous cannabis cultures persist, continue to feel aggrieved at what they perceive as the unduly tolerant attitude taken toward the drug by certain Western governments. This year's only resolution linked to cannabis was tabled by Japan and Azerbaijan and entitled 'Exploration of all aspects related to the use of cannabis seeds for illicit purposes.' While it dealt exclusively with seeds, the resolution filled a symbolic role in providing an arena for dispute, much of it veiled, over governmental responses to cannabis.

When this resolution was initially tabled by Japan, it was entitled 'Cannabis Seeds as a Global Threat'. There was little consensus as to the sense of proportion conveyed by this title, and the Chair quickly suggested that a new one be agreed while the COW debated the issues in the text. Germany responded to the resolution by pointing out that cannabis seeds are not covered by the drug control conventions, and that, moreover, they are specifically excluded due to their role in an extensive legitimate trade. The CND would be exceeding its mandate with such a resolution, the delegate opined. The INCB replied that, while the seeds were excluded, CND could resolve to act on the question, and poppy seeds provided a precedent for so doing. The Russian delegate spoke up in support of the INCB, insisting that not only could CND address instances not under the conventions, but that there was no excuse *not* to. The German delegate believed that to do so could involve amending the conventions; France then interjected

in support of the Russian position. The developing debate showed a general tendency to division between ‘hard-line’ countries on the one side and the pragmatists on the other. Interestingly, fault lines within the UN itself were also made evident when the WHO representative intervened to make two points. Firstly, he said, cannabis seeds and poppy seeds were different cases, the former being specifically excluded from the treaties, and secondly, there is no evidence that the seeds of high-THC strains led to greater harms. The INCB responded that poppy seeds were also explicitly excluded under the Single Convention, and yet CND had agreed resolutions on these. The Chair himself then appeared to weigh in against the WHO delegate. The text of this resolution included a call for updated research into the harms of cannabis by the WHO expert committee. The Chair had asked WHO to report back on this at next year’s CND, and responded tetchily when he was informed by the WHO representative that it would take the expert committee longer than that to do such research. “Well, you can rest over there in Geneva,” he said. “The Secretariat will do some work and bring some findings. A year is enough for us.” Although these comments were superficially humorous, there was a definite undertone of antagonism; it may have been personal, but in the context of this debate it rather seemed that institutional differences were being articulated, overlapping those between Member States whose cannabis policies diverged. The WHO, with its health mandate and its more culturally-nuanced analysis of drugs questions, not to mention its embrace of harm reduction, is often out of step with both UNODC and the highly politicized forum of the CND. These tensions were apparent beneath the formal manoeuvrings of the respective delegates.

From date-rape to data via NGOs: further tensions.

Argentina and France tabled a resolution on ‘Use of pharmaceutical technology to counter drug-facilitated sexual assault’. It concerned itself with the phenomenon of ‘date-rape drugs’; i.e., the use of substances introduced into drinks with the intention of incapacitating victims and facilitating sexual assault. The French delegate was concerned that the wording of the original draft made it appear as if alcohol itself were implicated in these practices; he wished it made clear that alcohol was merely a passive medium (as fruit drinks may be) into which incapacitating substances could be slipped. Several delegates made suggestions as to the wording that might best couch such a meaning; it was left to the Australian delegation to inject some evidential basis into the discourse by reminding the assembly that, in point of fact, alcohol itself is, by some measure, the most common form of ‘date-rape drug’.

The Australian intervention was appropriate in view of that country’s commendable efforts to place evidence at the heart of the CND’s deliberations. Australia was the driving force behind

the introduction of a resolution on ‘Improving the collection, reporting and analysis of data to monitor the implementation of the Political Declaration and Plan of Action etc’. This called for a general improvement of the range and quality of data on which policy decisions are to be taken. All of the Member States were in favour of this in principle, although some expressed alarm that the wording as it stood might provide an unguarded point of access for NGOs. The Egyptian delegate was especially exercised over this potential, interjecting to demand: “Procedurally, Mr Chairman—are we consulting with NGOs now?” Strangely enough, this remark came after an intervention by the WHO – a recognized treaty body in the UN drug conventions. An ensuing discussion made it clear that governments were free to include whomsoever they wish in their delegations, including experts based at NGOs having specialized knowledge in the field. The Egyptian delegate accepted this, but wished to make his feelings crystal clear: “The consultation called for in this resolution is between Member States and UNODC- not other experts. Not with anyone else but Member States.”

THE NORMATIVE SEGMENT – BACK TO THE C-BUILDING AND BACK TO NORMALITY.

Never the most thrilling aspect of the CND’s annual deliberations, this year’s normative segment was in many respects even slower than usual. This was perhaps to be expected in light of the events of the previous week. Having signed off on the Political Declaration and Plan of Action guiding international policy for the next ten years, the prevailing mood of the delegates now back in the C-building of Vienna International Centre was one of general exhaustion and post-HLS withdrawal. Nevertheless, the plenary session served to highlight a number of important issues and reveal areas of inconsistency.

Harm Reduction

Mindful of the events in the closing session of the HLS, it was obvious that the debate on drug demand reduction would be an opportunity for member states to re-emphasize their positions on the issue of harm reduction. (See box 1 for mention of harm reduction in statements during the HLS.) As such, the plenary saw many country statements on demand reduction include either opposition to or support for the approach. As in the HLS, the former group unsurprisingly included Japan, Russia and Sri Lanka, with other states including Italy making strident statements while not actually using the term harm reduction itself. The plenary also heard the US delegation note its revised position on needle exchange programmes. This reflected the Obama administration’s announced proposal to remove the Federal ban on funding such

programmes. Nonetheless, as noted in a statement by the US chargé Geoffrey Pyatt during the consultations on the Political declaration in February, and echoed in the US response to the interpretative statement in the HLS, the US continues to only consider needle exchange programmes as part of “a comprehensive approach to substance abuse that has long-term recovery, abstinence and social reintegration as its goals.” Those states who spoke positively about the policy included Norway, Austria and the Netherlands, the last of which stressed that “Harm reduction is about saving lives, not legalizing drugs.” Other supportive statements came from the International Red Cross and UNAIDS. Italy’s position, however, revealed the contradictory position of the EU at this year’s CND session. Speaking on behalf of the EU, the Czech Republic spoke in favour of harm reduction and its integral place within the policy of the Union which fully endorses harm reduction in the [EU drugs strategy](#) and its [action plan](#), and in so doing highlighted the fact that not all EU member states had chosen to support the interpretative statement on ‘related support services’ put forward by Germany in the HLS. While this dynamic arguably leaves the EU’s unitary position on drug policy at the UN in tatters, it should be recalled that since both Italy and Sweden had broken the EU consensus position (agreed several months earlier in Brussels) during the negotiations on the Political Declaration and Plan of Action, this was not the only example of policy schizophrenia. Indeed, although engaging with harm reduction interventions within their own countries, many Asian and Latin American delegations chose not to support the interpretative statement.

NGO Statements

On a more positive note, the plenary session provided the opportunity for a number of NGO representatives to take the floor. For example, in the demand reduction session Rebecca Schleifer on behalf of Human Rights Watch (HRW) raised the profile of compulsory treatment, an issue that had hitherto received scant attention. Diederik Lohman, also on behalf of HRW spoke on the issue of essential medicines. Here he made the important point that “Every year, CND talks about the devastation caused by abuse of controlled substances. It is time that it also starts addressing the enormous suffering caused by the lack of availability of controlled medications” (See Box 5.) Kevin Sabet of SUNDIAL spoke in support of the UN drug control conventions and used the opportunity to submit a petition to the Chair. While its moderate tone made it difficult to disagree with the sentiment of the document, claims that it represented the view of 5 million individuals was suspect; one Salvation Army signature had been taken to represent the organization’s 4 million members. Meanwhile taking a different view of the UN control apparatus, Rick Lines of the International Harm Reduction Association made a statement highlighting the CND’s failure to engage with harm reduction and

its resultant isolation from other parts of the UN system. This was a point further underlined by the very welcome announcement of a joint UNODC-WHO programme on Drug Dependence and Care during the HLS the week before (See Box 6.)

BOX 5 – Essential Medicines

Access to controlled substances for medical and scientific purposes received considerably more attention this year than previously, due to the activities of a number of country delegations, NGOs and INCB. As noted in the main text, in his opening address, Hamid Ghodse, the president of INCB, urged countries to ensure adequate availability of pain treatment medications. Swiss and UK delegations spoke during the plenary session about the importance of improving access to controlled medicines; some 70-75 people attended the side event on controlled medicines, sponsored by the Swiss delegation, Vienna NGO Committee, WHO, UICC and HRW; the agenda for the 53rd session of CND in 2010 again includes a specific item on controlled medicines (at the suggestion of the US delegation) – this year it was included for the first time as a sub-item under the regular agenda item on the implementation of the international drug control treaties; Human Rights Watch made an intervention during the supply reduction plenary calling on CND to begin addressing the suffering caused by poor availability of controlled medicines; and the data resolution contains a reference to access to controlled substances and should lead to collection and reporting of data on the issue to CND. While CND’s focus was still almost exclusively on the various aspects of drug interdiction, the attention drawn to access to controlled medicines seems to have created some real momentum around the issue that can be built on in 2010.

Thematic Debate - Data Matters

One section of the normative segment reflected probably the most substantive issue of the regular session of the 2009 CND. This was the thematic debate on ‘tools for enhancing the effectiveness of international drug control and international cooperation in the fight against illicit drugs.’ While incorporating a number of themes, data collection was at the core of the debate and the subject of not only a number of satellite events but also considerable informal inter-state discussion that, as discussed above, resulted in a resolution in the Committee of the Whole. Sandeep Chawla, as noted earlier the Director of the Division

of Policy Analysis and Public Affairs of UNODC, opened this section of the thematic debate with a thorough, informative and surprisingly frank presentation on the issue. Having outlined the centrality of data collection and analysis to the policy making process, he described the existing data and indicators of the world drug situation (production, seizures, prices and use) and concluded by looking at data availability and the opportunities for moving forward and improving the current situation. The presentation's key contribution to the debate was its honest assessment of the limitations of current figures. Among other things, Mr. Chawla pointed out that estimation of cannabis production still presented great challenges, stressed that in terms of global ATS production there was "Great Uncertainty and need for critique and improvement," that price data was limited and outdated, that drug purity was poorly monitored and that the process of value addition along trafficking routes was poorly understood. In terms of drug use, he stated that data was incredibly limited and that UN prevalence figures are currently based on "very very shaky foundations." As is discussed in more detail in a separate IDPC briefing paper, (*Why is the Outcome of the UN Drug Policy Review so weak and inconclusive? - LINK*), this position is clearly at odds with Mr. Costa's confident statements concerning the global figure for problem drug users.

Furthermore, Mr Costa's statements do not stand up well to the conclusion found within the RAND-TRIMBOS, EC commissioned *A Report on Global Illicit Drug Markets 1998-2007*. While the Executive Director arguably constructed 'evidence' to show that the global drug problem is being contained, the *Report* noted that "Broadly speaking the situation has improved a little in some of the richer countries...while for others it worsened, and for some of those it worsened sharply and substantially, among which are a few large developing or transitional countries. In other words, the world drugs problem seems to be more or less in the same state as in 1998: if anything, the situation has become more complex." Given the limitations of the data, it concluded "a fair judgment is that the problem became somewhat more severe." The *Report* was released just prior to the CND and unfortunately did not play a role in the discussion. It clearly showed the lack of reliable data, but nevertheless made clear that a tentative assessment is possible when data outside the UN data collection system are used.

Moreover, the Executive Director's statement in his opening presentation that "Our statistics are as robust as they could possibly be" was also made to look increasingly out of step with the position of important parts of the organization that he heads. In exploring the limitations of the current data, Mr. Chawla outlined the need for the development of a new programme to improve drug use data collection and asked if the ARQ and BRQ process is still fit

for purpose. His admission on the need to address the issue of uncertainty and his Division's desire to increase transparency is particularly welcome and indeed an area that the IDPC and the Transnational Institute (TNI) have singled out for attention in its responses to recent examples of the *World Drug Report*.¹⁸ On this issue, Mr Chawla stressed that the UNODC must explicitly acknowledge and estimate uncertainty and increase transparency, critique and consultation. The IDPC is pleased to hear that this year's *World Drug Report* will include details of original sources of data and of any adjustments to original estimates made by UNODC in deriving a prevalence estimate.

The presentation was well received by all member states and in the following debate Germany and Australia in particular made perceptive and constructive comments on the current state of play. Australia outlined many points that were later explored in more detail in a highly informative delegation run side event entitled "Data Matters." Here the presentation described the practices followed within Australia, a nation often held up as an exemplar of good data capture and analysis, and explained the reasoning behind the introduction of a data resolution in the COW. The German delegate urged the CND to embrace a paradigm shift in terms of improving the scope and quality of data and called for the UNODC to increase its role in realizing such a process. Again, this is a welcome sentiment with the IDPC having urged member states to increase the UNODC's capacity as a global centre of excellence for a number of years. An encouraging theme to come out of the session was the desire of many states to avoid duplication of data sets by incorporating the expertise of existing centres at both national and regional levels. The UK delegation, for example, encouraged the use of information from think-tanks as well as regional organizations such as the European Monitoring Centre on Drugs and Drug Abuse. It is important to note, however, that many nations appeared diffident about the prospect of the UNODC imposing data collection mechanisms upon them. This was a point clearly outlined by Argentina on behalf of the G-77 and China.

Many of the key issues in Mr Chawla's presentation were picked up in a UNODC side event entitled "Trends in the size and nature of the world drug problem: What do we know? How can we know more?" in the afternoon of Tuesday 17th March. Presentations by the head of the statistics unit, Angela Me, and Louisa Degenhardt, currently on secondment to the UNODC from the National Drug and Alcohol Research Centre at the University of New South Wales, Sydney, once again stressed the highly problematic nature of calculating the size of world drug use due to limited and uncertain data and the complexity of the

¹⁸ See for example: [Rewriting history. A response to the 2008 World Drug Report](#), TNI Drug Policy Briefing nr. 26, June 2008 at <http://www.ungassondrugs.org/images/stories/brief26.pdf>

process of data synthesis. Of particular note was the section called “Data gaps: they are huge” which graphically illustrated the inadequacies of the UN’s current data collection tool. Indeed, as we have discussed elsewhere, the incomplete nature of the ARQ returns means that huge tracts of the globe, principally most of Africa, the Middle East, China and Russia, do not present any data on prevalence. Having established this fundamental problem with the coverage of the raw data, the presentation highlighted how different methodological approaches in terms of estimation, imputation and extrapolation can affect the overall prevalence figures reached. Echoing the encouraging plans mentioned in Mr. Chawla’s presentation, this session concluded by outlining a number of central themes that would underpin the UNODC’s future work in this area. The key features included “openness to collect and share accurate data,” “transparency about methods used at all levels” and “discussion about ways to improve certainty.”

BOX - 6 *The joint UNODC -WHO Programme on drug dependence, treatment and Care*

Parallel to the high-level segment, the UNODC and WHO signed an agreement committing to work together to provide effective and humane treatment, including harm reduction, for all people with drug use disorders, to overcome the logistical, geographical, stigma, and discrimination barriers that mean that only 5 million of the estimated 26 million problem drug users world wide are in treatment, and that many of those receive treatment that is ineffective, or that breaches their human rights. This commitment represents a practical shift in emphasis by the UNODC away from supply reduction to a balanced approach. The programme aims to achieve recognition that drug dependence is a preventable and treatable multifactorial health disorder and that treatment has social advantages. It aims to promote and support evidence based policies, strategies and interventions that are based on a public health and human rights approach worldwide. The programme will advocate the mainstreaming of drug dependence treatment into health care and social welfare systems and to this end hopes to secure investment in comprehensive and results-oriented programmes for drug dependence treatment and care, with a particular emphasis on community based interventions.

The programme will map population needs, develop guidelines and standards and support policy and legislation revision, provide training, and develop low-cost outreach treatment and care services and increase access in rural and remote areas. The initial focus will be on low and

middle-income countries and 80% of the budget will be implemented at country and regional level through UNODC field offices and WHO country offices and through direct involvement with governments and local NGOs. Pakistan, Australia, Canada, Brazil, Cuba, The Netherlands, Germany, Iran, Italy, Sweden, USA, and the European Commission vocally welcomed the initiative and offered support as did Massimo Barra of the Red Cross and the OPEC Fund for International Development. A donors conference may be forthcoming, and it is to be hoped that this creates sufficient support for the initiative to achieve a step change in the availability and quality of treatment around the world.

Given this promising programme, it remains a mystery why the WHO is constantly marginalised during the CND meetings. While the INCB is ever present on the main podium, the WHO – a recognized treaty body in the UN drug conventions – is not and does not have the faculty to give an introduction statement in the same way as does the INCB. Furthermore, WHO delegates often have to struggle to get noticed and are regularly dismissed by country delegates. A more balanced representation of other central UN agencies at the CND is urgently needed and the position of the WHO in the drug control system needs to be strengthened.

**THE INTERNATIONAL NARCOTICS
CONTROL BOARD – ONGOING DEFENCE
AGAINST DEBATE**

The HLS statement of Professor Hamid Ghodse, president of the INCB, concerned itself with “the progress achieved and the difficulties encountered” in reaching the objectives laid out by the Special Session in 1998. While celebrating the efforts involved and the increased accession to the drug control treaties, he acknowledged that the “challenges that remain are daunting.” As mentioned above, Ghodse pointed out that coca cultivation has only decreased by 5% and that poppy reduction could be considered a success if one’s perspective were limited to South-East Asia. However, the unfortunate reality of Afghanistan intrudes upon this tidy picture; Professor Ghodse’s assessment of the situation in Afghanistan exhibited a mastery of the art of understatement: “Despite efforts by the international community and the government of Afghanistan, the drug control situation in Afghanistan has not improved significantly.” Considering that in the UNGASS year of 1998, Afghanistan’s opium production was less than 3,000 metric tons and in 2007 it had climbed to over

8,000¹⁹; considering also that global potential heroin production was respectively 435 and 733 metric tons, it is difficult to view the INCB's reading of the UNGASS decade as anything than less than disingenuous. "The fact that the cultivation, trafficking and abuse of drugs have not ceased entirely is taken by some to be a manifestation of failure and is often followed by proposals that standards should be relaxed." Here again, the scale of the situation is misrepresented, as is the nature of the critique and the proposed reforms. As discussed in the IDPC paper on Mr Costa's opening speech, the UN drug control agencies have an unhelpful tendency to see the debate in simple binary terms, with the untouchable conventions written in stone and under attack from 'pro-drug lobbyists' intent on making methamphetamine available in corner stores.

Professor Ghodse went on to thank the government of China for hosting the recent gathering at Shanghai, which commemorated the Shanghai Opium Commission and celebrated a century of drug control. He then seamlessly progressed to discuss human rights, the importance of which, he told his audience, he had underlined at the 1998 Special Session. "Controlling drugs and protecting human rights are not opposites but go hand in hand," he went on; in view of China's enthusiastic espousal of the death penalty, including for drugs offences, one can only hope that he reminded the Chinese government of this intimate relationship. In general, of course, INCB's support for drug policies informed by human rights is to be welcomed. Nonetheless, it is clear that some of the Board's conceptions of human rights are at variance with those of the NGO human rights community, not to mention the UN human rights bodies themselves. His contentious invocation of article 33 of the Convention on the Rights of the Child is a case in point.

It was unambiguously encouraging, however, to hear the INCB urging all governments to ensure the availability of controlled medications for pain relief purposes in its opening speech to the regular CND session. Professor Ghodse then went on to express alarm over the widespread use of the internet as a supply source of controlled drugs, the use of courier services in a like manner, and the spread of Ketamine use. The issue of Ketamine, however, once again revealed tensions between the INCB and WHO. Since the drug is on the list of essential medicines, the WHO remains concerned that proposals to increase control over Ketamine will limit legitimate access, particularly in situations where other anaesthetics are unavailable. While welcoming the INCB's attention to the issue of access to essential medicines, this was a point clearly made within the WHO's statement.

The INCB's opening speech was welcomed by many states; the Czech Republic, speaking on behalf of the EU, welcomed the speech's focus on access to controlled medicines; the delegate called for adherence to the conventions, but reminded the gathering that the primary purpose of the conventions is to promote the health and welfare of humankind, and called for this principle to play a more prominent role in the drug control system. The EU response also noted that the 1961 Single Convention was drawn up prior to the advent of HIV and HCV, and that spread of these viruses through injecting drug use called for urgent responses. The representative of the Netherlands described some of the innovative measures taken by his country, such as Drug Consumption Rooms and the Coffee Shops, which the INCB has spoken of as being contrary to the conventions. These measures were part of the successful new harm reduction package deployed by the Netherlands as part of its flexible approach, and were not, said the Dutch speaker, counter to the drug control conventions. The Japanese response to the INCB statement reminded the assembly that the Board had spoken highly of Japan's drug policies in its 2008 report; it appealed to the INCB to gather further data on "THC-rich cannabis seeds." The Russian Federation, meanwhile, thanked the INCB for "standing in the defence of the international narcotics control regime", and encouraged it to continue to stand guard against attempts "to dilute the regime." This was something that the Board duly did during the plenary of the regular segment. In a thinly veiled criticism of Evo Morales, Prof. Ghodse, no doubt well aware of the political obstacles stifling alteration to the conventions, pointed out that "Treaties are not cast in stone and can be changed when necessary" but stressed that such a "venerable body" as the CND "should not become an arena where certain acts or symbolic gestures divert from serious debate or where international conventions are undermined."

The INCB's statements throughout the session, especially the one before the HLS, demonstrated its now well-established pattern of attempting to defend the three drug control conventions, not against infractions (as per its mandate), but against critique and debate, and against particular interpretations. The responses of Member States to the INCB reflect the divergent attitudes prevailing toward the role that the Board has adopted for itself; while some express their outright approval, others are clearly uneasy at the Board's attempts at policing the plurality of voices that make up democratic discourse.

19 All these figures are drawn from the 2008 *World Drug Report*, pp.38-43.

UNODC BUDGET – CUTTING INTO THE BONE.

In his opening speech to the HLS, Mr. Costa stressed that a flawed funding model, especially in terms of core budget, is currently compromising the effectiveness of the UNODC. The core budget, he said, is “first inadequate, second comes from a handful of donors, and third has decreased over time.” “This has forced us” Mr. Costa continued, “into ever accelerating rounds of downsizing. We are no longer trimming fat, but cutting into the bone.” Documentation published around the CND supports this position and reveals that while the US\$333 million consolidated budget for the 2008-2009 biennium was only fractionally down since the previous biennium, major problems exist concerning the type of funding received by the UNODC. The 2008-9 figure included \$38.3 million from the regular budget (11.5%) with, consistent with long running funding patterns, voluntary contributions remaining dominant. These were budgeted at \$201.8 million (61%) for the drugs programme and \$92.9 million (28%) for the crime programme. Of this, \$26.8 million was expected to be general purpose, or core, funding for drugs and crime combined. Indeed, it is important to note that while since 2006 the level of voluntary funding for the UNODC has more than doubled, general purpose funding has dropped considerably. Data suggests that although overall the consolidated budget has fallen by only \$2.9 million since the 2006-2007 biennium, during the same period general purpose funding has been reduced by \$27.3 million. With such a dramatic reduction in core funding, it is becoming harder for the UNODC to operate at a day-to-day level. This is an issue legitimately picked up by the Executive Director in the budgetary session of the plenary where he stated, “member states either need to improve governance and funding, or we will have to say No...the UNODC is reaching a point where we can no longer deliver all that is asked of us.” Repeatedly reiterating the crisis nature of the situation, Mr. Costa went through the 2.2 million in budget cuts for 2009 already carried out. For instance, vacant posts have been frozen and 40% of positions in the field have been cut. The Executive Director’s comments also made it clear that there is concern that the global financial crisis and the uncertainty of UNODC’s budget may lead to further cuts in funding by member states. As a means of rationalizing the currently fragmented budgetary structure, the UNODC is proposing to merge the two general funds (for drugs and for crime) into one fund in 2010. It is important to highlight here, however, that while this could allow for better management, it also raises concerns about reinforcing the law enforcement component of drug strategy to the expense of demand side programmes. Cuba from its side raised the concern that the budget merger has already been put to practice, without any clarity upon whose authority that has happened. Questions were also raised about the fact that most budget cuts appear to

affect the country offices (the Bolivia office for example will be basically closed down and its tasks relayed to a regional office operating from Peru) while at headquarter level some sections are actually expanding, without sufficient transparency about such budget decisions to enable the CND to play its mandated governance role.

In response to Mr Costa’s statement most countries, publically at least, agreed that it was imperative to strengthen the financial capacity of the UNODC and address the problem of overreliance on earmarked voluntary funds. For the G77 this issue has become a major concern because it leads to a certain ‘privatization’ of UN agencies into the controlling hands of a few major donors. The EU, however, stressed the importance of transparent governance as well as sufficient funding and urged for increased accountability. This is an issue that has over the years often dissuaded member states from contributing non-earmarked funding.²⁰ The EU also referred positively to Resolution 22 in the COW for the “Establishment of a standing open-ended working group on the governance and financial situation of the UNODC.” While generally supported by other states, this was seen by Norway as another layer of bureaucracy that should be guarded against. Indeed, in a detailed statement on problem of earmarked funds the Norwegian delegate stressed the need for states to be more prudent in assigning tasks to UNODC and pointed out that this was not evident in the number of resolutions under consideration at this year’s CND. Norway also raised the interesting point of transparency in recruitment, pointing out that “no country has the exclusive right to certain positions within the organization.”

CONCLUSIONS

The preparations for, and implementation of, these 10 days of meetings in Vienna have involved a massive amount of energy, commitment and resources on the part of the UNODC, member states, and NGOs. Fundamentally, the outcome is one of no change – to institutional structures, to funding mechanisms, to global strategy, or to specific programmes. Such a ‘status quo’ outcome would be understandable if the existing strategy was working well, but in the light of the continuing growth and diversification of drug markets, the human cost of the resulting health and social harms, and of increasing tensions between countries on the correct mix of responses, defending a strategy of ‘more of the same’ seems irresponsible. On the positive side, crucial issues like human rights, harm reduction, access to essential medicines, a developmental approach to illicit cultivation, and

²⁰ See The Funding of the United Nations Office on Drugs and Crime: An Unfinished Jigsaw, Beckley Foundation Drug Policy Programme, Report 11, 2006. http://www.internationaldrugpolicy.net/reports/Beckley_Report11.pdf

evidence-based drug policy making, all made it prominently to the negotiations table. Even if the end-result in terms of approved final texts is highly disappointing, the nature and tone of the debates has changed irreversibly. The already visible divides are likely to further deepen in the years to come.