



INTERNATIONAL DRUG POLICY CONSORTIUM

**THE 2007 COMMISSION ON
NARCOTIC DRUGS**

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The International Drug Policy 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. Based on the findings of our research and written work, the Consortium engages with officials and politicians in national governments and international agencies – through correspondence, face-to-face meetings and involvement in conferences and seminars – to promote effective policies, thereby making the most up-to-date research and practice knowledge available to decision makers.

SUMMARY

This briefing paper reports on the proceedings and outcomes of the 50th Commission on Narcotic Drugs (CND), held in Vienna from 12th - 16th March 2007. The CND is the annual gathering of all United Nations member states to discuss and make decisions on a wide range of issues related to the global drug control system, and the work programme of the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB). The 2007 meeting, chaired by Hans Lundborg of Sweden, was the last such event before the watershed year of 2008, when the international community will review progress against the objectives set at the General Assembly Special Session on Drugs (UNGASS), held in New York in 1998. This CND was also notable for a significant improvement in Civil Society involvement in the proceedings – there were a record 81 registered Civil Society delegates and many further NGO representatives included in government delegations. The official NGO Forum was attended by the UNODC Executive Director, Antonio Maria Costa, who opened the proceedings and made himself available for questions. Furthermore the global consultation with NGOs, that is planned to feed in to the UNGASS review process, was formally launched by Michel Perron, Vice-Chair of the Vienna NGO Committee. Several NGOs – the IDPC, Senlis Council, OSI, Sundial – ran briefing sessions or receptions. The IDPC reception, held to launch our ‘5 Policy Positions’ document, was well attended by government representatives and officials of international agencies. On the other hand, there were repeated moves by some country delegations to marginalise NGO involvement in these processes, with questions raised regarding NGO involvement in the Committee of the Whole, and in the UNGASS review process. Clearly, not all member states are yet convinced of the value of interactions with Civil Society.

Across the 5 days of formal proceedings, and numerous satellite meetings, there is a plethora of technical, diplomatic and political exchanges. We have tried to summarise the proceedings and outcomes of just a small number of these, making judgments on which issues are most likely to be of interest to the IDPC readership. At various points in the text, we make reference to the official documents produced for the CND. These are available in several languages on the UNODC website (www.unodc.org) on the CND page.

UNODC PROGRESS REPORTS

The executive office of the UNODC presents its view on the current situation in world drug control, and progress in implementing its mandates and programmes, through several channels. The World Drug Report 2006, published several months ago, contains a collection of the latest data available on production, trafficking and use of illegal drugs, the consequences of that use, and the impact of the various programmes designed to tackle these problems. Several papers prepared for the CND use this data to inform the UNODC’s current assessment of the achievements in drug control, and the problems remaining. Relevant papers for the 2007 CND are the UNODC Strategic Review (E/CN.7/2007/6), the progress reports on the various action plans agreed at the 1998 UNGASS (E/CN.7/2007/3, 4, and 5, with appendices) and the biennial report of the Executive Director, Antonio Maria Costa (E/CN.7/2007/2). This last document provides the basis of the Executive Director’s opening address to the CND, which this year presented a broadly upbeat assessment of progress and achievement, and called for member states to give greater support to existing policies and agreements.

Mr Costa began by stating his belief that the world drug problem was being contained, and that the implementation of prohibitions on production, trafficking and use were responsible for a levelling out of demand and supply in the last 5 years, after 20 years of significant upwards trends. Acknowledging the difficulty in drawing clear conclusions from a still inadequate data set, Mr Costa stated his view that global prevalence and problems would be significantly higher if these controls were not in place. He referred to the need for ‘strong social vaccines’ to create anti-drug cultures, repeating his belief in the Swedish model of strong cultural disapproval leading to low prevalence, and drew comparisons with recent international successes in reducing prevalence rates of tobacco use. Conversely, he specifically referred to ‘some European countries’ in which drug use was treated too lightly by the authorities, in his view resulting in higher rates of drug use and consequent problems. We have written previously that such a view seems to be a selective and over-simplistic conclusion to draw – many ‘liberal’ European countries are experiencing reductions in prevalence, while many areas of the world with resolutely hard line drug policies are experiencing significant epidemics. The factors affecting increases or decreases in the scale of drug markets are indeed

complex, but do not seem to correlate with a particular government's enforcement policy, or public announcements.

Mr Costa expanded his analysis to cover the mass media, pointing out that its depiction of drug use is often part of the problem, and calling on media outlets to become part of the solution. While there are numerous examples of inaccurate or salacious reporting, it is however hard to see how a free and independent media can be harnessed in any meaningful way into a campaigning role that would have any significant impact on future drug use prevalence.

Speaking of specific drugs, Mr Costa acknowledged the limitations and 'diminishing returns' of forced eradication of Coca in the Andean region, and called for continued support from donor countries to build sustainable alternative lifestyles in areas of cultivation and production. On the Heroin trade, he celebrated progress in the reduction of poppy cultivation in the 'golden triangle' countries and Pakistan, but recognised that Afghanistan presented a unique problem that would not be resolved quickly, despite recent successes in some provinces. In a surprising admission, Mr Costa stated that, as long as demand for opium products existed, sources of supply would exist whatever the efforts of the international community. The obvious follow-up question is why the UNODC therefore continues to pursue a strategy that pours hundreds of millions of dollars into efforts to reduce production in current target areas when, even if these succeed, it is understood that production will simply move elsewhere?

On Cannabis, Mr Costa hailed the significant reductions in cultivation in Morocco, but recognised that global demand continued to increase, and was being increasingly supplied through small scale production closer to consumer markets, which was also associated with higher potency strains. He called for a coherent global strategy to respond to these trends, but gave no indication of what such a strategy could entail.

Finally, Mr Costa referred again to calls 'from some organisations' for the ditching of the drug control conventions, and stated his view that the objectives of drug control, and reducing the harmful consequences, were not incompatible, and could quite properly both be incorporated in national and international strategies. This is true, and the NGOs at the CND remain mystified as to which organisations he is referring. We are not aware of any calls for repeal of the conventions – there are some ideas circulating regarding their amendment, but most debate revolves around the effective prioritisation of resources and political support behind effective drug strategies and programmes within the conventions' framework.

UNGASS REVIEW 2008-2009

The key decision that had to be taken at this CND was the timing and procedure for the UNGASS review. A draft resolution tabled by Canada (L.14) was negotiated and adopted that agrees to maintain the March 2008 CND meeting as the moment to present the UNODC assessment report and to devote the thematic debate next year to discuss

it, "*underscoring the value of objective, scientific, balanced and transparent assessment*".¹ Following the March 2008 CND, a period of global reflection will start, leading to a high-level segment at the 2009 CND to draw conclusions for the future. The basic idea has thus been approved to separate time-wise the 2008 assessment report from the 2009 moment to adapt new strategies for the future, thereby preventing that documents guiding future steps are elaborated simultaneously with the UNODC assessment report without due time for reflection.

The 2008 assessment report will furthermore be enriched by inputs from expert consultations. A 40-strong expert group met for the first time in February this year -with financial support from the European Commission- as the result of an EU-sponsored resolution at the 2006 CND aiming to involve other specialized UN agencies and regional organisations in the UNGASS evaluation process.² The group –operating under the supervision of the UNGASS Coordination Group established within UNODC- is supposed to complement information from the Biennial Reports Questionnaire (BRQ) with additional relevant data sources and to provide recommendations on the methodology for the UNGASS 10-year assessment, enhancing the analytical work done by UNODC. It is still unclear how their recommendations will be reflected in the final UNODC assessment report.

The Canadian draft resolution reflected the outcomes of prior informal consultations within the 'Group of Friends' of the CND Presidency. The text refers back to the previous resolutions on the expert consultations, and on the importance of the role of civil society in the UNGASS review process.³ It does not detail how preparations for the 2009 high-level segment will be undertaken, apart from saying that a period of reflection should start at the 51st CND session next year and that the 2009 segment will be open to all UN Member States. While discussing the draft, however, several delegates drew the parallel with the 2003 mid-term review which was preceded by so-called 'PrepCom' meetings and mentioned that similar arrangements and further details need to be agreed upon next year.

Several countries, anxious that an evidence-based and objective evaluation might identify shortcomings in the current drug control framework and

¹ E/CN.7/2007/L.14/Rev.1, *Measures to meet the goal of establishing by 2009 the progress achieved in implementing the declarations and measures adopted by the General Assembly at its twentieth special session, Commission on Narcotic Drugs*, Vienna, 15 March 2007.

² See: IDPC, *The UNGASS Evaluation Process Evaluated*, Blickman, T. and Bewley-Taylor, D., Briefing Paper Nr. 1, June 2006.

³ E/CN.7/2006/10, Resolution 49/1, *Collection and use of complementary drug-related data and expertise to support the global assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its twentieth special session*; and Resolution 49/2, *Recognizing the contribution of civil society in global efforts to address the drug problem in the context of reporting on the goals and targets for 2008 set by the General Assembly at its twentieth special session*.

open up a Pandora's box of better-to-be-avoided questions and proposals for change, tried to reduce the involvement of outside experts and civil society in the process and to downplay the relevance of the global reflection and the high-level character of the 2009 event. There was even an – unsuccessful – attempt to include an operational paragraph that reads like a 'pre-emptive strike' against any possible critical outcomes of the assessment and reflection: *"Calls upon Member States to prepare a political declaration reaffirming the commitments made in the UN Conventions and the UNGASS Declaration, noting the progress achieved."* In the final plenary session, the US delegation made a statement underscoring their view that the assessment should lead to reaffirmation and strengthening of the existing drug control system. Fortunately, they did not obtain sufficient support for their position to insert any such language in the resolution.

INTERNATIONAL NARCOTICS CONTROL BOARD

There was significant debate on the role and positions of the INCB at this CND, focusing on three subjects – Harm Reduction, Coca Leaf, and the potential control of Ketamine. On the first day of the CND, President of the Board, Philip Emafo, presented the INCB's annual report for 2006. As in the previous two years, the 2006 report (available at http://www.incb.org/incb/en/annual_report.html) noted the connections between drug use and HIV in more than a dozen countries (including Afghanistan, Armenia, Azerbaijan, Bangladesh, China, Estonia, India, Kazakhstan, Latvia, Lithuania, Malaysia, Russia, Thailand, and Uzbekistan) but contained no mention of the sterile needle and syringe programs shown to reduce transmission through injection. The Board noted the existence of harm reduction in Vietnam and provision of substitution treatment in a number of countries, though without expressing appreciation or satisfaction for these developments. Rather, the Board expressed concern about diversion of opiates reported in many countries, and urged countries providing substitution treatment to take steps to prevent illegal sales and more accurately measure them. The INCB also urged countries to gather information on abuse of ketamine, a commonly used anaesthetic, to assist the WHO Expert Committee on Drug Dependence to consider "scheduling" that medication for tighter control, and urged national governments reporting ketamine abuse to add the medication to their national lists of controlled substances.

The INCB report was strongly critical of supervised injection facilities/ drug consumption rooms in Australia, Canada, Germany, Netherlands, Norway, Spain, and Switzerland, referring to them as *"rooms for drug abuse"* and reiterating the INCB view that such facilities violated the international conventions and should be *"brought to a halt"* (see, eg., para 563).

Several member states and international NGOs took issue with INCB assertions. The European Commission reminded the INCB that its mission should include a focus both on demand reduction and supply reduction strategies. Germany, the Netherlands, and Switzerland each challenged the Board's interpretation of the conventions on safer injection/consumption rooms and noted that they believed them to be a legal and important part of comprehensive drug demand reduction.

Switzerland and the Netherlands both specifically referenced the 2002 finding by the legal affairs section of the UN's drug control programme, produced at the INCB's request, which stated that safer injection facilities did not violate the conventions⁴. The Netherlands also disputed the Board's characterization that it *"provided free heroin to hard-core drug addicts,"* noting that its co-prescription programme provided heroin as a medicine in combination with methadone, offered treatment only to patients who met strict inclusion criteria, and had resulted in significantly improved health status. Several member states emphasized that the 1961 convention was written before HIV, and that injection-driven HIV epidemics and the convention's mandate to provide treatment, rehabilitation, aftercare, and health protections justified a range of measures including harm reduction. Many of these criticisms reflected the issues raised in recent reports on the INCB (Dave Bewley-Taylor and Mike Trace, *The International Narcotics Control Board: Watchdog or Guardian of the UN Drug Control Conventions?* http://www.idpc.info/docs/BeckleyFoundation_Report_07.pdf and the Canadian HIV/AIDS Legal Network/Open Society Institute, *Closed to Reason: The International Narcotics Control Board and HIV/AIDS* <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=998>).

In a critical presentation from the WHO, the secretary to their Expert Committee that advises member states on scheduling of drugs reported that ketamine was the only available anesthetic in many contexts, said he was "astonished" that the INCB had called on governments to schedule the medication, noted that the expert committee had to date found insufficient evidence of adverse effects from abuse to justify scheduling, and urged the commission to ignore the INCB recommendations in their report. The U.S.A. rose to the INCB's defence, noting that they could summarize the Board's performance in one word: - *"outstanding."* The first chapter of the INCB report, which focuses each year on a special issue, was on counterfeit medication and unauthorized sales via the internet, a topic on which the US has shown leadership at previous sessions.

Further debate on the INCB Report, in the plenary session on the 14th March, included a heated exchange on coca policy between the Bolivian delegation and INCB President Emafo. At the root of this conflict is the failure of drug conventions to distinguish adequately between coca and cocaine and to recognise the positive attributes of the coca leaf for Andean indigenous cultures. The 2006 INCB report includes a harsh rebuke of the Bolivian government's policy to promote licit uses of the coca leaf, reiterating that both growing and using coca contravenes international conventions, particularly the 1961 Single Convention. It in turn prompted a strong response from the Bolivian delegation, which defended the historical, religious, cultural and medicinal uses of the coca leaf. At the same time, the delegation underscored its commitment

⁴ E/INCB/2002/W.13/SS.5, Flexibility of treaty provisions as regards harm reduction approaches, prepared by the UNDCP Legal Affairs Section for 75th INCB session, 30 September 2002. <http://www.tni.org/drugsreform-docs/un300902.pdf>

to monitoring and limiting coca cultivation and to continue their efforts to interdict cocaine and other illicit drugs. President Emafo responded with further criticisms of the Bolivian government's position, claiming that it is clear that Bolivia "is going to continue to undermine the conventions" adding an exhaustive list of the articles of the 1961 and 1988 conventions allegedly being violated, and calling for a 'meaningful dialogue'. The final Bolivian statement blamed the INCB for 'a lack of respect for indigenous cultures', referred to article 14 of the 1988 Trafficking Convention (which in fact allows for traditional coca leaf consumption) and their reservations entered on signing it, and also called into question the way in which the INCB is pursuing its mandate and asked for better dialogue between the INCB and the government. This exchange demonstrates the urgent need to review the status of the coca leaf in the conventions. (For additional information, see www.tni.org/docs/200703091826474065.pdf)

In his closing comments, INCB President Emafo reiterated points made in the report for 2006, confirming the Board's clear opposition to the emerging proposal for the rescheduling of Coca Leaf. On the issue of ketamine, he noted that responsibility for scheduling controlled substances belonged to national governments, not to WHO, reiterated reports of abuse from multiple countries, and stated that the WHO expert committee had agreed to reconsider the issue next year. Dr. Emafo offered no further comment on the issue of supervised injection facilities/drug consumption rooms. These exchanges represent an unprecedented expression of dissatisfaction from many member states and the WHO on the performance and findings of the INCB. The meeting ended with calls for further dialogue between the Board and its critics, which will be pursued in the coming months.

AFGHANISTAN

UNODC had just released its rapid assessment survey predicting that this spring's opium harvest in Afghanistan "may not be lower than the record harvest of 165,000 hectares in 2006".⁵ The concern over the booming opium trade and growing insecurity in the country featured prominently in the plenary debates and the draft resolution on Afghanistan (L.12) triggered the lengthiest negotiations of them all.

In his opening statement, Mr Costa said that in "southern Afghanistan the vicious circle of drugs funding terrorism and terrorism supporting the drug trade is stronger than ever" and that he "was glad to learn that new rules of engagement are being considered to fight drugs and insurgency at the same time, with the same weapons."

War-metaphors in drug policy and attempts to insert too eradication-friendly language into the resolution was objected to by the EU, which remains concerned over the effectiveness of current forced eradication operations. As clearly stated in the 'EU approach to Alternative Development', this tends to generate social and political violence and is unlikely to succeed in the long term.⁶ In the plenary statement on the issue the EU said it "understands that an integral part of the National Drug Control Strategy is the need for an effective eradication programme targeted

where there is access to legal rural livelihoods" and that "emphasis should be placed on vicious circles of poverty, on indebtedness, on the marginalization of drug cultivation, and on the correct sequencing of alternative development and eradication efforts."

Restricting eradication only to areas where there is access to legal rural livelihoods, however, was according to the US –strangely backed by Brazil– contrary to the Afghan constitution that prohibits poppy cultivation under any circumstances. A compromise was eventually found in avoiding the word 'eradication' completely and instead talk about the need to 'intensify efforts for the complete elimination of poppy cultivation in accordance with the National Drug Control Strategy'. The Afghan Strategy indeed stresses the need to secure sustainable licit livelihoods first and talks about 'long term elimination' specifying that it "will not tolerate farmers who persist with opium cultivation where alternative livelihoods are sufficiently available."⁷

Much time was lost in discussion of a preambular paragraph, which noted with concern "the growing links between terrorism and illicit drugs in Afghanistan".⁸ Several countries clearly preferred to keep any reference to terrorism out of the text, questioning the mandate of the CND to define what is terrorism and what not, especially after a proposal to delete the words 'in Afghanistan'. After more than two hours of discussion quoting similar GA resolutions, the original text was adopted only deleting the word 'growing'. Another issue was that Iran and Pakistan both wanted explicit recognition for their special contribution in the fight against drugs flowing out of Afghanistan. Pakistan went as far as proposing to be especially commended for 'effectively controlling drug trafficking' which prompted one delegate to cry out loud 'what?!'. Harsh words went back and forth about the massive international heroin trade, about precursors entering Afghanistan largely unhindered, about 'rampant corruption', and the US clearly did not want Iran to be applauded for anything at all. An extended evening session of the Committee of the Whole finally managed to reach a compromise on the resolution. When the agreed text was brought for approval to the Plenary, Nigeria complained that the resolution had been drawn up in other political considerations which had polarized the work of the CND, considered it to be a waste of time and resources and proposed to not discuss any Afghanistan resolution in the CND at least until 2010 – which was rejected.

⁵ UNODC, *Afghanistan Opium Winter Rapid Assessment Survey*, February 2007.

⁶ *The EU Approach on alternative Development*, 9597/06, CORDROGUE 44, Brussels, 18 May 2006.

⁷ Transitional Islamic State of Afghanistan, National Drug Control Strategy, 5-year strategy (1381-1386) for tackling illicit drug problems in Afghanistan, Kabul, 18 May 2003.

⁸ E/CN.7/2007/L.12/Rev.1, *Support to the counter-narcotic measures and programmes of Afghanistan*, Afghanistan and United Kingdom of Great Britain and Northern Ireland: revised draft resolution, Commission on Narcotic Drugs, Fiftieth session, Vienna, 14 March 2007.

Afghanistan itself remained largely silent during the deliberations. The country had not delegated any official from the capital and left the negotiations to the permanent representative in Vienna. This was yet another demonstration of the general perception that in fact Afghanistan does not have an autonomous drug policy and leaves the design and defence of it largely to the US and the UK.

The Italian Minister of Social Solidarity, Mr Ferrero, responsible for drug policy coordination, caused a bit a stir on Monday morning when he – apart from objecting strongly to the US pressure to introduce chemical spraying of Afghan poppy fields – announced that his government would support an exploration of the possibilities of licit medicinal uses of Afghan opium, a recommendation that was approved by the Italian parliament a few days prior to the CND. Also on other issues Minister Ferrero's outline of his drug policy intentions represented one of the most reform-oriented messages heard at this CND session: depenalisation of consumption, alternative sentences, harm reduction, a different status for cannabis than for cocaine or heroin, facilitate medical uses of cannabis, protection of human rights of drug users and strong opposition against the death penalty.

A dispute between Ecuador and Colombia on aerial spraying in the border area between the two countries surfaced several times during this year CND. In the plenary session on supply reduction, Ecuador referred to the “*painful reality*” of the Colombian aerial spraying practice that “*produce physical harm to people, destroy legal crops and contaminate waters*”. Colombia, annoyed by Ecuador's public outing of what they consider to be a bilateral issue, defended its sovereign right to spray herbicides and announced the forthcoming publication of the 2nd CICAD study proving its harmlessness. For more info, see: <http://www.tni.org/docs/200702221900378752.pdf>

HARM REDUCTION AND HEALTH ISSUES

UNODC has been a UNAIDS co-sponsor since 1999 and is the lead agency within UNAIDS for HIV/AIDS prevention and care among injecting drug users and in prison settings. At this CND, HIV prevention was less prominent in the discussions than in the last two years. This indicates that to some extent that the mandate of UNODC to engage in HIV/AIDS prevention now seems to be accepted (or at least tolerated by dissenting countries). On the downside many of UNODC's considerable achievements in HIV/AIDS prevention are insufficiently recognised publicly by the Executive Director, despite the fact that in budget terms HIV/AIDS prevention is now a significant part of UNODC funding.

In his opening address Mr Costa spoke of the combination of “*health protection, socio-economic and law enforcement initiatives*” of the Commission, the Commission's focus on HIV/AIDS in the past decade, and the role of UNODC in the global fight against AIDS. Mr Costa argued that there is no dichotomy between drug control and HIV prevention – good drug control leads to HIV prevention. This formulation echoes the US position – that drug control is the best form of HIV prevention.

HIV/AIDS prevention and care is an explicit part of UNODC strategy for the period 2008-2011 (E/CN.7/2007/14), specifically – to expand members states capacity to reduce the spread of HIV/AIDS among injecting drug users “*in conformity with relevant international conventions and the established mandates of UNODC*”, to expand capacity to reduce the spread of HIV/AIDS in prisons, and to expand the capacity of civil society to respond to HIV/AIDS in prison settings. Disappointingly, there is no explicit mention of this HIV/AIDS prevention mandate in the outline of the consolidated budget for 2008-2009 (E/CN.7/2007/12). Because the budget is presented by main topic (drugs, crime) and then by administrative functions (eg research and analysis, services for policy making and treaty adherence) the significant HIV prevention programme gets little specific mention.

The Executive Director's report on “*expanding the capacity of communities to provide information, treatment, healthcare and social services to people living with HIV/AIDS and other blood borne diseases*” (E/CN.7/2007/11) was a useful detailed exposition of UNODC activity. The title of the report is misleading because much of the work deals with HIV prevention for injecting drug users in general, not only for people living with HIV/AIDS. The report noted the significant expansion of UNODC human and financial resources in HIV prevention, including the assignment of HIV/AIDS professionals at a country and regional level to build capacity of government and civil society organisations. The report also noted that stigmatisation and discrimination constitute one of the greatest barriers to dealing effectively with HIV/AIDS. It also noted that whilst UNODC's response to HIV/AIDS and drug use has increased considerably, much more needs to be done, in particular in increasing the coordination of assistance provided to countries by multi-lateral and bi-lateral levels.

UNODC has other promising programmes and materials that will contribute to HIV prevention and health improvement amongst drug users – a major best practice dissemination programme (TreatNet), which is designed to improve capacity for, and standards of, drug treatment in several regions, and a recent key best practice document, the UNODC/WHO/UNAIDS report on *HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings*.

In the plenary debate on demand reduction many countries called for strengthening responses to HIV/AIDS and welcomed the role of UNODC. Specific and strong support for harm reduction came in statements from the European Union, the Netherlands, Switzerland and the UK. The UK robustly supported harm reduction and the comprehensive package of measures endorsed by UNAIDS which include provision of sterile injection equipment, substitution treatment, peer outreach, voluntary counselling, confidential HIV testing, prevention of sexual transmission, and access to primary healthcare and antiretroviral therapy. Only two countries spoke explicitly against harm reduction. The USA reiterated its opposition to “*harm-reduction practices such as needle exchanges, decriminalisation or legalisation of drugs, government provision of illegal drugs, needles and drug injection rooms, and other forms of assisting or abusing drugs*”. Japan voiced opposition to

needle exchange and think it inappropriate for UNODC to promote it for all settings.

Brazil, China and Iran reported good experiences on scaling up HIV prevention. Many delegations (including the USA) spoke in support of the technical consultative meeting, which had been held by UNODC in Vienna in the week preceding the CND. This focussed on experience in scaling up of national programmes to address HIV/AIDS among injecting drug users. The meeting was attended by 92 AIDS and drug programme managers from 50 countries. Participants requested UNODC to increase its technical support to countries and provide protocols and guidelines for effective approaches. Participants also requested UNODC to organise a follow up meeting of law enforcement, the judiciary and the penal system. It was notable that, apart from the reiteration of its opposition to needle exchange in the plenary, the USA made no attempt to undermine or criticise the efforts of other donors and the UNODC to upscale HIV prevention in affected countries. This is a most welcome development.

Overall, the impression is that the mandate of UNODC to work on HIV prevention is now generally accepted and supported by CND, and this is reflected in the draft report of the 50th Session (E/CN.7/2007/L.1/Add.6).

PRECURSOR CONTROL

The issue of precursor control was the topic of the thematic debate of the 2007 CND. Precursors are the “*substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances*”. Prevention of diversion of precursors through an import-export notification system, became part of the drug control agenda in 1988, when it was included in Article 12 of the *Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. The INCB has developed guidelines for national authorities to prevent the diversion of precursors and essential chemicals listed in Tables I and II of the 1988 Convention. The Board reports annually to the Commission on Narcotic Drugs (CND) on the implementation of the provisions of article 12 of the 1988 Convention and monitors the implementation of the measures adopted by UNGASS for precursor control. Governments have an obligation under the international drug control treaties to cooperate fully with INCB and to implement its recommendations for the control of precursors.

Precursor control can be considered as the “*second front*” of international drug control. Not being able to control the demand and supply of drugs, preventing the diversion of precursors became one of the measures to tackle supply. However, precursor control suffers from the same setbacks as drug control in general: Despite an ever-increasing set of control mechanisms, the overall global drug market is not really affected. The conclusions of the thematic debate reflected this. The international community simply cannot admit that control measures are not achieving their objectives. Consequently, the first conclusion was that “*international precursor controls were clearly working, as reflected in the statistics on seized precursors, prevented diversion attempts and changed international*

trafficking routes and modus operandi”. The second was that “*the system of pre-export notifications was a very effective deterrent to diversion and should be followed by all States*”.

However, the other conclusions contradicted the first two: “*In spite of all the control mechanisms, the chemicals required for the illicit manufacture of heroin, cocaine and amphetamine-type stimulants (ATS) were still reaching the manufacturing sites*”. Moreover: “*New challenges were emerging. As controls took effect in one region, traffickers turned to other diversion methods and trafficking routes. Increasing pressure was being put on the diversion of licit pharmaceuticals. Africa was increasingly being used for diversions and transit trafficking. Ephedra and safrole-rich oils were becoming problems. The illicit manufacture of controlled chemicals was emerging in certain regions.*” One matter of particular concern was the emergence of “*designer precursors*”, non-scheduled substances specifically manufactured to circumvent international and national controls over precursor chemicals. In other words, just as with the attempts to eradicate illicit cultivation or dismantle trafficking routes, precursor control also sets in motion the so-called balloon effect: when you squeeze one side of the balloon, the air shifts to the other side of the balloon, but the total amount of air is not reduced.

Nevertheless, and once again reflecting the process in drug control, the lack of effectiveness does not lead to a re-assessment of the current strategy of precursor control, but to an increase in control mechanisms, in particular to an increase in the number of chemicals on the control lists. Every year there is a drive from different countries to put more chemicals on the lists for different reasons. According to some countries this is ineffective, and clogs up the system. Since 1996, the INCB also maintains a special surveillance list of non-scheduled substances. These are not scheduled in the Tables I and II of the 1988 Convention, but is a secret list on which countries voluntarily agree to monitor certain precursor chemicals. This is done to circumvent the cumbersome inclusion of chemicals on the official Tables, and thus make the system “*more flexible*”. Last year the CND, urged by the United States, adopted resolution 49/13 “*Strengthening systems for the control of precursor chemicals used in the manufacture of synthetic drugs*” which requested Member States to provide to the Board estimates of their legitimate requirements for key chemicals and preparations used in the manufacture of synthetic drugs.

This year a resolution sponsored by the European Commission aimed to widen the control, through the voluntary use of the Pre-Export Notification (PEN) online system of the INCB, to the plant ephedra or ‘yellow hemp’, the precursor for ephedrine and pseudo-ephedrine that are used to manufacture methamphetamine, as well as phenylacetic acid, the precursor of 1-phenyl-2-propanone, which is the essential chemical frequently used in the illicit manufacture of amphetamine and methamphetamine. This is based on EU drug precursors regulations adopted in 2004 and 2005 with its annexed list of scheduled substances. The regulation includes a very dubious definition, however, of a ‘scheduled substance’: “*any substance listed in Annex 1, including mixtures and natural products containing such substances*”. Since ephedrine is included in the annex, by definition any natural ephedra product is subject to the same

levels of control as the extracted and concentrated ephedrine used for methamphetamine production. The EU now proposes to apply the same definition to Table 1 precursors in the 1988 Convention, so basically extending standing EU legislation to the UN sphere. The INCB is working on proposals in the same direction, proposing a definition for safrole-rich oils, (included in Table 1 as a precursor for ecstasy): *“any mixtures or natural products containing safrole present in such a way that it can be used or recovered by readily applicable means”*.

The *de facto* inclusion of ephedra and phenylacetic acid as pre-precursors to (meth)amphetamines would mean yet another tightening of control through circumventing inclusion in Tables I and II of the 1988 Convention. Ephedrine and pseudoephedrine are included as the most important precursors for methamphetamine. Even though those substances can be synthesized, the market is still dominated to a large extent by products extracted from the ephedra plant (*Ephedra sinica*), a natural stimulant and medicine widely cultivated and used in China under the name of Ma huang. In the case of ecstasy, a key precursor is safrole, extracted from the root-bark of the sassafras tree that grows in South-east Asia, and from a variety of other plants including nutmeg. So far, neither ephedra branches nor sassafras bark have been included in the Tables, and even if they were included this would not mean that those plants and the cultivation of them would become prohibited; it would only mean a more strict monitoring of international trade.

However, the control of plant-based raw materials with limited psychoactive effects that are ‘precursors’ for more powerful derivatives is getting blurred within the current conventions. Relatively harmless substances such as coca and ephedra are not only ‘precursors’, but also have their own traditional, medicinal, performance enhancing or recreative uses that might be regarded as less harmful alternatives to their more powerful derivatives. Mild natural stimulants are pushed out of the market because they contain very low percentages of alkaloids which may only be hazardous in their concentrated form – coca contains less than 1 per cent cocaine and ephedra contains less than 3 per cent (pseudo)ephedrine. With the increase of control measures in the different conventions and other international regulations these aspects of plant-based drugs are getting lost. A re-assessment of international control mechanisms on these substances is urgently needed. The challenge is to design a more consistent treaty logic that differentiates more clearly between control mechanisms for milder and stronger psychoactive plants, and between their natural uses (including traditional medicinal uses), plant-based raw materials used for the extraction of alkaloids, and plant-based ‘precursors’ that are convertible into psychoactive drugs. There was no sign during this CND that the UN system is even considering such a course of action.

DRONABINOL

The World Health Organization (WHO) recommended to transfer dronabinol (*delta-9*-tetrahydrocannabinol (THC)) and its stereoisomers from Schedule II to Schedule III of the 1971 Convention on Psychotropic Substances in order to enhance its medical use. Dronabinol is an active

ingredient of the medicine Marinol which is prescribed as an appetite stimulant, primarily for AIDS and chemotherapy patients. Dronabinol is the main active principle of cannabis. However, the cannabis plant contains a *“natural mixture”* of around 70 different cannabinoids, as well as many other substances. Therefore, the pharmacological properties of natural cannabis and dronabinol are not identical.

Delta-9-tetrahydrocannabinol was included in Schedule I of the 1971 Convention at the time of its adoption. In 1989, the WHO Expert Committee on Drug Dependence recommended that dronabinol be moved to Schedule II. This proposal was rejected by CND, and the Committee reviewed the question again in 1991, when it recommended that all variants of *delta-9*-tetrahydrocannabinol be rescheduled to Schedule II. This recommendation was adopted by the CND in 1991. In 2002, *delta-9*-tetrahydrocannabinol was critically reviewed by the WHO Expert Committee and on the basis of the available data, the Committee considered that dronabinol should be rescheduled to Schedule IV of the 1971 Convention. However, in a highly unusual move Mr Costa intervened claiming it would send a wrong signal and create a tension with the 1961 Convention where cannabis is included in List I and IV, the category of most dangerous substances without any therapeutic usefulness. He requested the WHO to reconsider its decision and the recommendation was never forwarded to the CND. For this year’s CND, the existing critical review report was updated, including information from recent scientific publications, to enable the Committee to finalize the process of critical review at the 2007 CND.

Since 1991, a lot has changed with regard to the substance. Cannabinoids, including dronabinol, became promising medicines. Impeding its development by a too strict control regime should therefore be regarded as unethical. The WHO stated that the substance has a moderate therapeutic usefulness and as a result of continuing clinical research, its medical use is likely to increase. It found that Schedule III is more appropriate and that its present listing in Schedule II is outdated. The WHO estimated the abuse risk for dronabinol to be very low and the Expert Committee even hesitated between a recommendation for Schedules III and IV. Finally it has chosen for a small step and so it recommended Schedule III. The WHO made it clear that the proposed change does not relate to cannabis. The present scheduling is cannabis on Schedule I and IV of the 1961 Single Convention and dronabinol on schedule II of the 1971 Psychotropic Substances Convention, there is no legal connection from one to the other. A rescheduling would not change this.

However, in the notification process several countries and in particular the US were strongly opposed to rescheduling. A vague justification was given that the WHO did not sufficiently base its recommendation on new evidence, but in fact the objection stems from the fear that the recommendation is a positive signal by WHO towards medicinal use of cannabis, which could ‘send the wrong message’ that cannabis might not be as harmful as its current classification under the 1961 treaty would indicate. The INCB echoed the concerns of the US. Although not mandated to recommend on scheduling with regard to the 1961 and 1971 Conventions – the task of the scientific and medical evaluation

with regard to the scheduling of substances is attributed to WHO and the INCB is just one of the advisors heard in the process – it nevertheless spoke out against the WHO recommendation in its 2006 Annual Report and at the CND plenary. According to the Board, there have been reports of its abuse in ‘a country’ in which it is prescribed most, meaning the US. The US in its extensive written comments to the WHO on dronabinol had mentioned only ‘low levels of diversion and abuse’. During the debate at the plenary more countries took the line of the US and the Board and expressed their concern about the possibility of dronabinol being transferred to a schedule with less stringent control, which might lead to a proliferation of dronabinol preparations and an increased diversion of such preparations into the illicit traffic and increased abuse of such preparations.

Scheduling decisions are taken at the CND by vote: a 2/3 majority for substances under the 1971 convention, simple majority for substances under the 1961 Convention. To approve the dronabinol recommendation 35 Member States needed to vote yes, however in the oral statements made only two (The Netherlands and Bolivia) out of fifteen speakers expressed themselves in favour of the proposed rescheduling. Several speakers questioned the scientific basis of the recommendation, others pointed at the risk of diversion and tensions with the 1961 Convention. Canada was at least honest in its rejection, commending the WHO for its ‘excellent expert advice’, the validity of which they did not question, but making clear that for other considerations the government could not support rescheduling because it ‘may send a confusing message with regard to the risks associated to cannabis use’.

The lack of support was a remarkable difference with the written replies the WHO had received in past months, where eleven out of thirteen countries had made clear they had no objections to the proposed rescheduling, including some who now expressed themselves to the contrary.⁹ Given the many objections raised during the debate, the US proposed to not have a vote at all and instead take a decision by consensus to hand the issue once again back to the WHO for reconsideration “in consultation with the INCB”. The spokesperson for WHO had made clear in his introduction that all available evidence and comments from countries had been taken into account by the experts and therefore “*it does not make sense to postpone a decision or to do another assessment.*” The chair, however, ‘saw a lot of nodding’, took over the US proposal and hammered ‘it is so decided’. The applause following the decision sounded like a fundamental undermining of the expert authority of the WHO, an outburst of relief that in the CND political considerations still prevail over science and evidence.

UNODC BUDGET ISSUES

The following update builds on The BFDPP INCB Report 7, which described budget arrangements for the UNODC up until the current year. At this CND, the estimated budget for 2008 and 2009 was presented. It is important to remember, however, that these are simply estimates, and funds still need to be sought or confirmed for many of the planned activities.

According to documents prepared for the 50th session of the CND (*Outline of the consolidated budget for the biennium 2008-2009 for the United Nations Office on Drugs and Crime, Report of the Executive Director*, E/CN.7/20007/12-E/CN.15/2007/15) the UNODC Consolidated budget (i.e. both drugs and crime) is expected to experience a 15% increase in funds from \$283 million in the 2006-2007 biennium (revised budget figures) to \$326 million in 2008-2009. Consistent with long running funding patterns voluntary contributions will remain dominant in this period. Despite a request for increased regular budget funding to cover costs generated by the UNODC’s increased mandate, it is expected that there will actually be a slight decrease in the percentage of overall UNODC funding coming from regular budget relative to the previous biennium. The figure is expected to drop from 12% of the consolidated budget (\$33 million) to 11% (\$37 million.)

While this represents a broad picture of expansion, the systemic problem for UNODC remains the imbalance between earmarked programme resources, and general purpose funds. This is exacerbated by the relatively low allocation from UN central funds, and leaves the Office under constant pressure to reduce central costs, and vulnerable to donor influence. The Executive Director, expressing this concern, notes in the Report that “*it is hoped that the level of general purpose funds will at least remain constant [emphasis added]*” and thus enable an essential increase in operating reserves. In order to help generate savings, in 2006-2007 the programme support budget of the Fund of the UNDCP has been reduced by \$3 million (7%) from \$42.5 million to \$39.5 million. Freezing vacant posts and the imposition of travel restrictions has generated savings of \$1.4 million. However, these savings have largely been offset by salary increases and exchange rate losses. More savings are planned in 2007, including through rationalization of field offices and freezing additional vacancies. In 2008-2009, programme support budget increases in the Fund of the UNDCP of \$0.6 million (2%), to \$40.1 million from \$39.5 million in 2006-2007, are “*foreseen as the minimum necessary to support the growing programme of work.*”

Indeed, with regard to the Fund of the UNDCP there is a fear that general purpose income will continue to decline and thus negatively impact the programme support budget, which is largely funded by general purpose income. This remains the case while special-purpose income increased by \$17 million (14%) to \$137.4 million in 2006-2007 from \$120.4 million in 2004-2005 and is projected to grow by a further \$26 million (16%) to \$163.4 million in 2008-2009. Most of these increases are expected to come from cost-sharing contributions from Brazil, Mexico and UNAIDS. The upward trend also reflects substantial pledges from the Netherlands for HIV prevention in Central and Eastern Europe and a steady increase across a wide range of projects from the European Commission.

⁹ E/CN.7/2007/10, *Changes in the scope of control of substances*, Note by the Secretariat, 22 January 2007.

UNODC BUDGET TRENDS

The programme of work is projected to grow by \$41.4 million from \$230 million in 2006-2007 biennium to \$271.4 million in 2008-9; an increase of 18%. This expected increase reflects continued growth in special purpose (earmarked) voluntary contributions. Within this overall figure, some changes in funding and hence percentage share are expected. Funding for "Support" (headquarters) looks set to remain stable (\$29 million and around 10%) as does funding for "Research, analysis and advocacy" (around \$20 million and 7%). However, "Services for Policy Making and treaty adherence" is expected to receive a modest increase in funding (\$2 million to \$34 million). Similarly with "Rule of Law" (\$42 million, 15% to \$43 million, 13%) and "Support" (field offices) (\$25 million, 9% to \$27 million, 8%). More significant increases are hoped for "Global Challenges" (\$83 million, 29% to \$101 million, 31%), "Anti-trafficking" (\$53 million, 19% to \$72 million, 22%). In terms of regional drugs programmes the following trends can be identified:

- Africa and the Middle East – While there was a \$4.2 million (21%) decline in 2006-7, it is expected that the region will receive an increase of \$3.6 million (24%) in the Programme Fund of the UNDCP. This is a result of new counter narcotics programmes in Kenya and South Africa and new HIV/AIDS projects in Kenya. Among other sources, increased funding is also expected from the EC, the UN Trust Fund for Human Security and UNAIDS.
- South Asia, East Asia and the Pacific – The 2006-7 programme of the Fund of the UNDCP increased by \$2.5 million (12%) and a further increase of \$1 million (5%) is projected for 2008-9. This reflects increases in sustainable livelihood programmes in Myanmar and expected increases in the areas of prevention, treatment, rehabilitation and counter-narcotic enforcement in Viet Nam.
- West and Central Asia – The period 2006-7 saw, due to funding delays, a \$1.8 million (5%) decrease in the budget of the Fund of the UNDCP. New partners, including the World Bank, EC, OPEC, NATO and bilateral donors are, however, expected to produce an increase of \$6 million (16%) in 2008-9. A key area of focus will be counter-narcotic enforcement projects in Afghanistan. Drug abuse and demand reduction projects throughout the region will see expanded components to also address HIV/AIDS while "alternative development in Afghanistan will target provinces achieving significant cultivation reductions and eradication."
- Central and Eastern Europe – The 2006-7 budget of the Fund of the UNDCP increased by \$3.7 million (159%) and a further increase of \$3.7 million (61%) is projected for 2008-9. These increases reflect the strong growth in HIV/AIDS prevention activities funded by the EC and the Netherlands throughout the region.
- Latin America and the Caribbean – The 2006-7 budget of the Fund of the UNDCP increased by \$8.2 million (24%) and a further increase of \$6.7 million (16%) is projected for 2008-9. These increases are funded through government cost sharing, mainly for HIV/AIDS prevention in Brazil; sustainable livelihoods in Colombia, and prevention, treatment and rehabilitation in Mexico. The sustainable livelihoods programme in Bolivia will also increase, with funding from the US Agency for International Development.
- Global Activities - The 2006-7 budget of the Fund of the UNDCP decreased by \$1.5 million (6%) due to delays in funding. However, an increase of \$5.3 million (24%) is projected for 2008-9. Increased funding is expected from UNAIDS, which will finance the bulk of the projected increase in the Fund of the UNDCP in 2008-9. Increases are also foreseen in the illicit crop monitoring programme.

The discussion of budgetary issues in the Committee of the Whole revealed a stark difference in opinion on the financial health of the UNODC between some member states and the Secretariat. Reflecting upon the increased level of voluntary contributions and the increased use of project money for infrastructural costs, the US, among other delegations, wondered why budgetary issues were being framed in negative terms. In response to the US line of "where's the crisis?" and other requests for an explanation of financial problems, the Secretariat made a number of salient points. These related directly to the decline in general purpose funding and, at the request of member states, a simultaneous increase in activities that it felt should be paid for from these funds. For example, the Secretariat stated, in order to retain the multilateral spirit of Office activities such as the production of the

World Drug Report and the work of the Independent Evaluation Unit shouldn't have to rely on voluntary money or the largesse of particular states. Furthermore, cost cutting efforts like freezing posts and increasing the number of short term contracts was seen to be unsustainable, especially with increased mandates on the Crime side of the UNODC's work. While states including Italy and Morocco shared the Secretariat's assessment of the situation, the US, with some support from the UK, felt that more transparency within the UNODC was needed before an agreement could be reached on the idea that the Office was in a state of financial crisis.

The G77 made a strong plea for a bigger share for UNODC core costs out of the general UN budget with the argument that the agency was

'privatised' by major donors, which contravenes the spirit of the UN system. It will not be easy to convince UN headquarters, but at least UNODC should be given the chance and support to fight its case in New York. The Group has very active and capable spokespersons in the CND with their delegates from Cuba, Nigeria and Egypt with experience in UN Fifth Committee administrative matters. Their view was supported by the UK who suggested to clarify in the UNODC budget those costs involved in implementing the necessary mandates and to keep the core of the office running. The US was the main opponent, arguing their objection on the basis of their 'zero growth' policy for the UN in general, but also in the background the fear they might lose a powerful instrument of financial pressure to keep UNODC in line with US drug policy. No consensus was reached, but the G77 made clear this is for them a crucial issue and they will continue to raise it.

CONCLUSIONS

The annual CND is a crucial moment to assess global trends in drug markets and shifting policy options to deal with drug-related problems, from the fields to the streets and from prisons to treatment centres. Civil society for too long has left this section of the UN system largely to governments and it is a welcome sign that more and more NGOs engage actively in the process. Several lessons can be drawn from this 50th session, some raising concern, others signalling positive developments.

1. The climate and terms of debate at the CND is still far apart from the realities many NGOs working in the field have to deal with. For most it feels like entering a virtual reality with its own agreed language and where the real dilemmas faced in practice cannot be discussed. Political considerations and diplomatic courtesies are the rule rather than scientific evidence or experience from practice. To make the CND a more useful environment its *modus operandus* needs to be challenged. Also many government delegates complain about the absence of real debate. The plenary is dominated by national statements reciting accomplishments in terms of seizures etc, many of which could simply be put on paper and distributed in the hallways. It often feels more like an annual ritual meant to avoid debate, than a serious attempt to discuss best options for how to deal with the very real problems in the world today.
2. The thematic debate was introduced a few years ago with the intention to improve conditions for content debate. This year's topic of precursors has long been an unchallenged field of drug law enforcement, taking place at a safe distance from human harms easily associated with law enforcement at the level of farmers or users. Trends in precursor control, however, do start to show some worrying aspects. Absence of measurable impact on levels of production leads to a Pavlov-response to expand the scope of controls more and more without serious evaluation or consideration of potential consequences of extending controls to 'pre-precursors' and plants. It also tends to further increase

inconsistencies between the three drug control treaties and the competence of the mandated agencies involved.

3. The issue of agency competences was one of the more worrying topics that surfaced at this CND. The WHO for years has played a marginal role at CND meetings and its authority was further undermined by the INCB and several Member States. The INCB once again stretched its mandate by selectively condemning certain countries' policies and showed no willingness to engage in a more transparent discussion about the politicised positions it takes. The Board's unhelpful attitude was strongly challenged by the WHO and several Member States and NGOs. UNODC remains too dependent on its major donors who pressure the agency in a certain direction in violation of the multilateral spirit that should characterise all UN bodies. By adopting the UNODC strategy, the CND ratified the process of merging the drugs and crime departments. UNAIDS or the WHO are not even mentioned once in that strategy. The crucial health-aspects of drug policy at the UN level and the specialized agencies involved are pushed to the sidelines in spite of the fact that UNODC is a co-sponsor of UNAIDS and that the WHO has a direct mandate laid down in the conventions. More 'system-wide coherence' is a UN priority brought to the attention of the CND by the Secretary General with his paper 'Delivering as one' (E/CN.7/2007/15). The questions around the role of the INCB, UNODC donor dependence, and a proper balance between drugs, crime and health aspects need to be linked to the broader UN reform agenda, which will be a major challenge for the years to come.
4. Last but not least, the CND agreed on a clear commitment and procedure for a proper evaluation of the 1998 UNGASS objectives and action plans. Four crucial steps in the 2008-2009 process are now defined: the Thematic Debate at the 51st CND session, the NGO conference "*Beyond 2008*" in June next year, a period of reflection, and a high-level segment at the 52nd CND in 2009. It is now time to shift our attention to the key topics that need to be addressed in that process in order to ensure that appropriate adjustment to the global drug control strategy can be agreed upon by 2009.

The IDPC will continue to monitor the progress of drug policy discussions at the United Nations throughout 2007, and intends to issue an update on plans for the 2008 CND at the end of the year.