

Recommendations on the Joint Ministerial Statement

Fourth Intersessional Meeting, 5th November 2013

In preparation for the High Level Segment of the Commission on Narcotic Drugs (CND) in Vienna in March 2014 – and in particular the negotiation of the Joint Ministerial Statement – the following recommendations aim to promote a cohesive statement that reflects the changing priorities and realities of drug control around the world (based on the latest draft of 30th October 2013).

Overall, the structure of this latest draft is much improved, although member states should call on the Chair to ensure a coherent flow within and between the different sections: some issues remain over-emphasised throughout (such as new psychoactive substances, and too many operational details on law enforcement and money laundering, that should not be in a political statement), there are several paragraphs that we would like to see protected during the next round of negotiations (such as paragraphs 6, 9, 10 and 39), and there are some key areas that remain under-emphasised (see below).

1. ACKNOWLEDGE LIMITED PROGRESS AND DEBATE

The Statement must acknowledge that the original objective to significantly reduce supply and demand, as set out in the 2009 Political Declaration, has not been achieved to date. To be credible, the document should contain an honest assessment of progress since 2009. The 2013 World Drug Report clearly concludes that, although the scale of the market for some drugs in some countries has declined, this has been outweighed by an increasing market for other drugs and in other parts of the world. Furthermore any progress is overshadowed by the continuing negative impact of certain overly repressive drug control measures on development, human security, public health and human rights. We suggest language be inserted along these lines:

“Note with concern that the 2013 World Drug Report concludes that the production and consumption of substances under international control have remained largely stable during the past five years, although trends in drug supply and demand have been diverse across regions and countries and across drug types; and acknowledge that the problems associated with illicit drug markets and their control have to be more effectively addressed, utilising the flexibilities permitted within the drug control conventions and exploring new approaches;”.

We welcome the proposed 2016 UN General Assembly special session on drugs and encourage member states to use this opportunity to have an open and wide-ranging debate on the future of the global drug control system. The preparations and proceedings of the special session should include the participation of civil society and a broad array of UN agencies. Paragraphs 8 and 9 should include specific mention of the UN special session. In paragraph 8, it is also necessary to call for more involvement and coherence between the various UN agencies in dealing with drug issues alongside highlighting the principle role of the Commission on Narcotic Drugs. Paragraph 9 on civil society participation should have an explicit reference at the end: *“including a meaningful contribution to the preparations and proceedings of the 2016 UN General Assembly Special Session on drugs”*.

2. HUMAN RIGHTS

Commitments to human rights are mentioned in the opening paragraph, yet they receive no further attention elsewhere in the Statement – a problematic oversight given the primacy of international human rights law within the UN system. We recommend inserting new language on this issue:

“Acknowledge that a lack of respect for human rights undermines the implementation of the UN drugs conventions [language from the INCB Annual Report 2008], and urge all Member States to ensure that responses to the world drug problem respect human rights and the inherent dignity of all individuals [language from the 2009 Political Declaration] ”. In addition, paragraphs 31 and 40 should end with “ensuring activities are carried out in full respect for human rights and fundamental freedoms”.

Alternatively, stronger language could be drawn from the 2011 Political Declaration on HIV: “Reaffirm the commitment to fulfil obligations to promote universal respect for and the observance and protection of all human rights and fundamental freedoms for all in accordance with the Charter, the Universal Declaration of Human Rights and other instruments relating to human rights and international law”.

3. HIV, HARM REDUCTION AND RESOURCING

The original draft Statement included the following proposal from Switzerland: “Express concern that according to UNAIDS the global goal of reducing HIV infections among people who inject drugs by 50% by 2015 will not be reached, and that drug-related transmission is driving the expansion of the epidemic in many countries” – and the EU member states asked for similar language to be re-instated at the third inter-sessional meeting. This acknowledgement is important to include in the ‘Challenges & Priorities for Action’ / ‘Demand Reduction’ section of the Statement, as it is currently a glaring omission, and should not be considered as a ‘new’ paragraph, as it was in the original text, and unilaterally removed by the Chair.

While welcoming the maintenance of references to harm reduction within the Statement, this wording cannot be excluded from paragraph 16. We therefore suggest the following amendment: “note that those States that have implemented evidence-informed harm reduction programmes, as outlined by UNODC, UNAIDS and WHO technical guidance, have remarkably reduced the number of HIV infections among people who use drugs”.

In addition, paragraph 32 needs to reference the need for increased funding of harm reduction: “Consider the following main challenges faced in addressing drug demand: financing of public programs on drug prevention, harm reduction and drug treatment...”. In this context, though, we welcome the sentiment behind paragraphs 30 and 39.

4. ACCESS TO ESSENTIAL MEDICINES

While welcoming the inclusion of this issue in the Statement, the language could be improved. At the end of paragraph 8, we suggest adding: “and their responsibility under Article 9, Section 4 of the Single Convention to ensure the availability of narcotic drugs for medical and scientific purposes”.

We also recommend the following text to replace the current paragraph 37: “Note with concern that the availability of internationally controlled drugs for medical and scientific purposes, particularly for the relief of pain and suffering, remains low to non-existent in most countries; and highlight the need for Member States, the WHO, the INCB and the UNODC to address this situation, while ensuring that their activities to prevent diversion and abuse as outlined in the UN drug conventions do not constitute inappropriate regulatory barriers;”.

5. PROPORTIONALITY AND ALTERNATIVES TO PUNISHMENT

Following the discussions at the last intersessional meeting, it is disappointing to see references to the death penalty removed from the Statement. Given this development, it is important to reference the need for proportionate sentences for drug-related offences within the document. Language could be inserted into paragraph 15 on this key issue:

“In order to... enhance the efficiency and effectiveness of the criminal justice system while ensuring proportionality, member states shall encourage, where appropriate, the use, monitoring and effective implementation of drug policies and programmes including arrest referral and appropriate alternatives to coercive sanctions... for drug-using offenders” [from the EU Drugs Strategy 2013-2020]. Alternatively: “establishing penalties that are reasonable and proportionate to the severity of the crime, and supporting alternatives to incarceration in appropriate cases” [from the OAS Declaration of Antigua Guatemala “For a comprehensive policy against the World Drug Problem in the Americas”].

6. THE ROLE OF THE WORLD HEALTH ORGANIZATION

The WHO is a core part of the international drug control system with a clear treaty-based mandate, yet remains side-lined in the Statement in relation to the UNODC and the INCB. The unique mandate given to the WHO under the 1961 and 1971 Conventions to provide recommendations for scheduling needs to be clearly recognised.

This is particularly the case for new psychoactive substances, which remain over-emphasised in the document – despite being outside of the drug control schedules, and with no acknowledgement of the innovation of the New Zealand approach. The primary role of WHO has to be included in, for example, paragraphs 21, 36, and 37.

7. ALTERNATIVE DEVELOPMENT

Conflating alternative development with eradication measures can undermine its success as the 1998 and 2009 Action Plans cautioned. Adequate sequencing means that alternative livelihoods needs to be sufficiently in place before any eradication can take place, and this key principle should to be clearly recognised in the Statement. For example, in paragraphs 17 and 44 the insertion of eradication language confuses the developmental focus of the paragraphs and should therefore be deleted. Furthermore, with regard to the recent adoption of the United Nations Guiding Principles on Alternative Development by the General Assembly (welcomed in paragraph 20), other relevant UN agencies (especially the UNDP and the FAO) should be consulted as to whether these guidelines are consistent with previously established and related UN development principles and guidelines.

The International Drug Policy Consortium is a global network of non-government organisations 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 briefing papers, disseminates the reports of its member organisations, and offers expert advice to policy makers and officials around the world.

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