

**Authorities relevant for discussion on the  
CND Chairperson’s draft annex to the Political Declaration**

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## I. Relevant International Treaties

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf).
- Convention on Psychotropic Substances (1971), [http://www.incb.org/pdf/e/conv/convention\\_1971\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1971_en.pdf).
- Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), [http://www.unodc.org/pdf/convention\\_1988\\_en.pdf](http://www.unodc.org/pdf/convention_1988_en.pdf).
- Universal Declaration of Human Rights (1948), <http://www.unhchr.ch/udhr/>.
- International Covenant on Economic, Social and Cultural Rights (1966), <http://www2.ohchr.org/english/law/cescr.htm>.
- International Covenant on Civil and Political Rights (1966), <http://www2.ohchr.org/english/law/ccpr.htm>.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <http://www2.ohchr.org/english/law/cat.htm>.
- Convention on the Rights of the Child (1989), <http://www.unhchr.ch/html/menu3/b/k2crc.htm>
- United Nations Convention against Transnational Organized Crime (2000), <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.
- United Nations Convention against Corruption (2003), [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

## II. General Principles of Law and Law Enforcement

- Charter of the UN, <http://www.un.org/aboutun/charter/>

Article 103: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, **their obligations under the present Charter shall prevail.**"

## a. General principles/Due Process

### i. Empowerment

*The principle of empowerment may be discussed in connection with **A.VI. Mainstreaming, Community Involvement and Participation, para. 30**. The following language is relevant to the issue of whether young people and drug users should be explicitly included in the debate and discussion on drug demand reduction measures.*

- Beyond 2008 Declaration and three resolutions, <http://www.unodc.org/documents/ngo/BEYOND%202008%20DECLARATION%20AND%20RESOLUTIONS%20DEFINITIVE.pdf>.

Preamble:

“Acknowledge that **young people represent a significant proportion of those affected**, both directly and indirectly by illicit/harmful drug use and drug policy, and honour the **right of young people to be actively engaged** in the formation and evaluation of all facets of global drug policy”

- UN Statement of Common Understanding on Human Rights-Based Approach to Development Cooperation and programming (UNDG 2003), [http://www.undg.org/archive\\_docs/6959-The\\_Human\\_Rights\\_Based\\_Approach\\_to\\_Development\\_Cooperation\\_Towards\\_a\\_Common\\_Understanding\\_among\\_UN.pdf](http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf).

“Among these human rights principles are: universality; indivisibility; interdependence and inter-relatedness; non-discrimination and equality; **participation and inclusion**; accountability and the rule of law.

(...)

Participation and Inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized.”

“Other elements of good programming practices that are also essential under a HRBA, include:

(...)

3. Strategies are **empowering**, not disempowering.”

### ii. Treatment of prisoners

*For discussion on **A.VIII. Drug Use and Dependence Care in the Criminal Justice System, para. 37**.*

- UN Standard Minimum Rules for the Treatment of Prisoners (Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), [http://www.unhcr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhcr.ch/html/menu3/b/h_comp34.htm).

para. 22(2) "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers."

### iii. Due Process Protections

*The following language provides a basis for the discussion on E. Countering Money-Laundering, para. 2.a(ii), with regards to due process protections, in particular, the right to be presumed innocent until proved guilty vs. "non-conviction-based confiscations."*

- Universal Declaration of Human Rights (1948), <http://www.unhcr.ch/udhr/>.

Article 11:

"(1) Everyone charged with a penal offence has the **right to be presumed innocent until proved guilty** according to law in a public trial at which he has had all the guarantees necessary for his defence."

- International Covenant on Civil and Political Rights (1966), <http://www2.ohchr.org/english/law/ccpr.htm>.

Article 14:

"1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. (...)

2. Everyone charged with a criminal offence shall have the **right to be presumed innocent until proved guilty according to law**.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal

assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.”

- European Convention for the Protection of Human Rights and Fundamental Freedoms (1951), <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf>.

#### Article 6: Right to a Fair Trial

“1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. (...)

2 Everyone charged with a criminal offence shall be **presumed innocent until proved guilty according to law**.

3 Everyone charged with a criminal offence has the following minimum rights:

a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b to have adequate time and facilities for the preparation of his defence;

c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e to have the free assistance of an interpreter if he cannot understand or speak the language used in court.”

## **b. Law Enforcement and Flexibility of the Drug Conventions**

### **i. Legal Framework for access to drug dependence treatment and rehabilitation**

*The following language is useful for the discussion of **A.V. Availability and Accessibility, para. 27**, with regards to the proposed addition of references to reducing the negative health and social consequences and the negative impact of criminalization and marginalization of drug users.*

- OHCHR and UNAIDS, International Guidelines on HIV/AIDS and Human Rights (2006 consolidated version)  
[http://www2.ohchr.org/english/issues/hiv/docs/consolidated\\_guidelines.pdf](http://www2.ohchr.org/english/issues/hiv/docs/consolidated_guidelines.pdf).

“Guideline 4: **States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV or targeted against vulnerable groups.**

(...)

(d) Criminal law should not be an impediment to measures taken by States to reduce the risk of HIV transmission among injecting drug users and to provide HIV-related care and treatment for injecting drug users. Criminal law should be reviewed to consider: the authorization or legalization and promotion of needle and syringe exchange programmes; the repeal of laws criminalizing the possession, distribution and dispensing of needles and syringes.”

## ii. Non-Custodial Measures and Depenalization

*The language below is useful to emphasize on the importance of developing non-custodial measures. It is relevant for the discussion on **A.VIII. Drug Use and Dependence Care in the Criminal Justice System, para. 37.***

- Convention on the Rights of the Child (1989), <http://www.unhcr.ch/html/menu3/b/k2crc.htm>

“No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or **imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort** and for the shortest appropriate period of time;”

- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), adopted by GA Res 45/110 (14 December 1990),  
<http://www2.ohchr.org/english/law/tokyorules.htm>.

“1.5 Member States shall **develop non-custodial measures within their legal systems to provide other options**, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.”

“2.1 The relevant provisions of the present Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice.”

“2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should **provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions**. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.

2.7 The use of non-custodial measures should be part of the **movement towards depenalization**

**and decriminalization** instead of interfering with or delaying efforts in that direction.

3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial, shall require the offender's consent.”

### iii. Constitutional Limitations vs. uniform application

*The following language is relevant to the issue of whether the annex should refer to a “uniform application of policies” at B.V. Maintaining Law Enforcement, para. 44.*

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf).

Article 36: Penal Provisions

“1.a) **Subject to its constitutional limitations**, each Party shall adopt such measures as will ensure that (...) contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

2. **Subject to the constitutional limitations of a Party, its legal system and domestic law, (...)**”

- Convention on Psychotropic Substances (1971), [http://www.incb.org/pdf/e/conv/convention\\_1971\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1971_en.pdf).

Article 10 : Warnings on Packages, and Advertising

“2. Each Party shall, **with due regard to its constitutional provisions**, prohibit the advertisement of such substances to the general public.”

Article 21: Action Against the Illicit Traffic

“Having **due regard to their constitutional, legal and administrative systems**, the Parties shall: (...)”

Article 22: Penal Provisions

“1.a) **Subject to its constitutional limitations**, each Party shall treat as a punishable offence, when committed intentionally, any action contrary to a law or regulation adopted in pursuance of its obligations under this Convention, (...)”

“2. **Subject to the constitutional limitations of a Party, its legal system and domestic law, (...)**”

- Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), [http://www.unodc.org/pdf/convention\\_1988\\_en.pdf](http://www.unodc.org/pdf/convention_1988_en.pdf).

Article 3: Offences and Sanctions

“1.c) **Subject to its constitutional principles and the basic concepts of its legal system: (...)**”

“2. **Subject to its constitutional principles and the basic concepts of its legal system**, each Party shall adopt such measures as may be necessary to establish as a criminal offence under domestic law (...)”

“10. For the purpose of co-operation among the Parties under this Convention, including, in particular, co-operation under articles 5, 6, 7 and 9, offences established in accordance with this

article shall not be considered as fiscal offences or as political offences or regarded as politically motivated, **without prejudice to the constitutional limitations and the fundamental domestic law of the Parties.**”

#### iv. Latitude and Flexibility of the Drug Conventions

*This section refers to the latitude and flexibility left to the States by the drug conventions for the implementation of their policies. This language is relevant for the discussion of **A.VIII. Drug Use and Dependence Care in the Criminal Justice System, para. 38, and F.I. Extradition, para. 4.***

- Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), UN Doc. E/CN.7/590, available at <http://www.stopdrogama.org/download/004.pdf>.

para. 3.37 p. 60:

“(…) it should be borne in mind that, following previous practice, the obligations are stated with a **deliberate degree of generality**. Consequently, each party is left with **considerable flexibility** in determining how best, in light of its moral, cultural and legal traditions, to secure the required goal.”

para. 3.95, p. 82:

“It will be noted that, as with the 1961 and 1971 Conventions, paragraph 2 **does not require drug consumption as such to be established as a punishable offence**. Rather, it approaches the issue of non-medical consumption indirectly by referring to the intentional possession, purchase or cultivation of controlled substances for personal consumption. (…)”

- INCB Annual Report for 2001, [http://www.incb.org/incb/en/annual\\_report\\_2001.html](http://www.incb.org/incb/en/annual_report_2001.html).

para. 211:

“The international drug control treaties do **grant some latitude with regard to the penalization of personal consumption-related offences**. Parties to the 1961 Convention are under obligation not to permit the possession of drugs for personal non-medical consumption. Parties to the 1988 Convention are required to establish as criminal offences activities preparatory to personal consumption, **subject to each party’s constitutional principles and the basic concepts of its legal system.**”

- Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), [http://www.unodc.org/pdf/convention\\_1988\\_en.pdf](http://www.unodc.org/pdf/convention_1988_en.pdf).

Art.3 para.2:

“**Subject to its constitutional principles and the basic concepts of its legal system**, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic

drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention.”

- Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), [http://www.unodc.org/pdf/convention\\_1988\\_en.pdf](http://www.unodc.org/pdf/convention_1988_en.pdf).

Art. 3: Offences and Sanctions

para.4 “c) Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as **alternatives to conviction or punishment**, measures such as **education, rehabilitation or social reintegration**, as well as, when the offender is a drug abuser, **treatment and aftercare**.

d) The Parties may provide, **either as an alternative** to conviction or punishment, **or in addition** to conviction or punishment of an offence established in accordance with paragraph 2 of this article, **measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.**”

- Beyond 2008 Declaration and three resolutions, <http://www.unodc.org/documents/ngo/BEYOND%202008%20DECLARATION%20AND%20RESOLUTIONS%20DEFINITIVE.pdf>

p. 11 para. 3:

“The participants in the “Beyond 2008” International NGO Forum: (...) Call upon the INCB to: a. renew its commitment to give equal attention to the supply and demand reduction elements of the Drug Control Conventions in their reports, challenging countries’ poor performance and highlighting best practices and innovative approaches in both these elements with a view to fully exploring the **existing latitude and flexibility of the Drug Control Conventions** and ensure adequate supply of licit drugs to treat dependence and relieve pain”

### III. Human Rights Generally

*This section brings together general references to human rights made in the context of international drug policy making. This language is useful to discuss whether or not stronger references to human rights are needed in the annex, particularly at:*

**A.I. Enhancing International Cooperation, para. 6;**

**A.III. Human Rights and Dignity of Drug Users, paras. 18-19;**

**B.I. Enhancing Cooperation, Coordination and Law Enforcement Operations to Reduce Supply, new para 2 (bis); and**

**D.III. A Balanced, Long-Term Approach to Address Illicit Drug Crop Cultivation, para. 22 and new para. 33 (bis).**

- CND Resolution 51/12 (2008) Strengthening cooperation between the United Nations Office on Drugs and Crime and other United Nations entities for the promotion of human rights in the

implementation of the international drug control treaties, in UN Commission on Narcotic Drugs Report on the fifty-first session (28 November 2007 and 10-14 March 2008), E/2008/28, [E/CN.7/2008/15](http://daccessdds.un.org/doc/UNDOC/GEN/V08/529/94/PDF/V0852994.pdf?OpenElement), pp. 32-33, <http://daccessdds.un.org/doc/UNDOC/GEN/V08/529/94/PDF/V0852994.pdf?OpenElement>

para. 2:

*“Requests the United Nations Office on Drugs and Crime to continue, within its existing mandate, to work closely with the competent United Nations organs, **including the United Nations human rights agencies.**”*

- Commission on Human Rights resolution 2002/31, The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2002-31.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2002-31.doc).

para. 4:

*“Decides to appoint, for a period of three years, a special rapporteur whose mandate will focus on **the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;”*

- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to Sweden (28 Feb. 2007) [UN Doc A/HRC/4/28/Add.2](http://www.unhcr.org/refugees/refugees/4/28/Add.2)

61. These results are in line with the worldwide experience that harm-reduction programmes, including needle exchange programmes and associated health care, promote and protect the health of drug users and reduce transmission of communicable diseases such as hepatitis B and C and HIV, including vertical transmission to newborn children from pregnant intravenous drug users or their partners. These programmes are highly cost-effective.

62. Harm-reduction programmes are endorsed by the World Health Organization, the United Nations Office on Drugs and Crime and the Joint United Nations Programme on HIV/AIDS. (...) such an important human rights issue cannot be left to the discretion of local government. **The Special Rapporteur emphasizes that the Government has a responsibility to ensure the implementation, throughout Sweden and as a matter of priority, of a comprehensive harm-reduction policy, including counselling, advice on sexual and reproductive health, and clean needles and syringes.**”

- Committee on ESC Rights, Concluding Observations: Tajikistan (24 November 2006) UN Doc No [E/C.12/TJK/CO/1](http://www.unhcr.org/refugees/refugees/4/28/Add.2).

69. The Committee urges the State party to take effective measures to combat the inflow and consumption of illicit drugs and **to provide adequate treatment and rehabilitation for drug users.**

70. (...) The Committee also recommends that the State party establish time-bound targets for extending the provision of free testing services, free treatment for HIV and **harm reduction services** to all parts of the country.”

- Committee on ESC Rights, Concluding Observations: Ukraine (4 January 2008) UN Doc No [E/C.12/UKR/CO/5](#).

para. 28:

“The Committee is gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the **limited access by drug users to substitution therapy.**”

para. 51:

“The Committee recommends that the State party (...) **make drug substitution therapy and other HIV prevention services more accessible to drug users.**”

- UN Statement of Common Understanding on Human Rights-Based Approach to Development Cooperation and programming (UNDG 2003) [http://www.undg.org/archive\\_docs/6959-The\\_Human\\_Rights\\_Based\\_Approach\\_to\\_Development\\_Cooperation\\_Towards\\_a\\_Common\\_Understanding\\_among\\_UN.pdf](http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf).

**“Common Understanding**

1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘rights-holders’ to claim their rights.”

#### IV. Dignity of Drug Users

*The following language is useful for any discussion relating to the dignity of drug users. It is particularly relevant for discussions on A.II. Comprehensive Approach, para. 16 (on the issue of using the term “social reintegration” rather than “re-insertion into society”); A.III. Human Rights and Dignity of Drug Users, paras. 18-19.*

Beyond 2008 Declaration and three resolutions,

<http://www.unodc.org/documents/ngo/BEYOND%202008%20DECLARATION%20AND%20RESOLUTIONS%20DEFINITIVE.pdf>.

p. 3: “Resolution Objective 1

“To highlight NGO achievements in the field of drug control, with emphasis on contributions to the 1998 UNGASS Action Plan, in areas such as policy, community engagement, prevention, treatment, rehabilitation and **social reintegration**.”

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf).

Article 38: Measures against the Abuse of Drugs

“1. The Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and **social reintegration** of the persons involved and shall co-ordinate their efforts to these ends.”

“2. The Parties shall as far as possible promote the training of personnel in the treatment, after-care, rehabilitation and **social reintegration** of abusers of drugs.”

- Commission on Human Rights resolution 2002/31, The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2002-31.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2002-31.doc).

para. 4:

“Decides to appoint, for a period of three years, a special rapporteur whose mandate will focus on **the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;”

- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to Sweden (28 Feb. 2007) [UN Doc A/HRC/4/28/Add.2](http://www.unhcr.org/refugees/refugees/4/28/Add.2)

61. These results are in line with the worldwide experience that harm-reduction programmes, including needle exchange programmes and associated health care, promote and protect the health of drug users and reduce transmission of communicable diseases such as hepatitis B and C and HIV, including vertical transmission to newborn children from pregnant intravenous drug users or their partners. These programmes are highly cost-effective.

62. Harm-reduction programmes are endorsed by the World Health Organization, the United Nations Office on Drugs and Crime and the Joint United Nations Programme on HIV/AIDS. (...) such an important human rights issue cannot be left to the discretion of local government. **The Special Rapporteur emphasizes that the Government has a responsibility to ensure the implementation, throughout Sweden and as a matter of priority, of a comprehensive harm-reduction policy, including counselling, advice on sexual and reproductive health, and clean needles and syringes.**"

- Committee on ESC Rights, Concluding Observations: Tajikistan (24 November 2006) UN Doc No [E/C.12/TJK/CO/1](#).

69. The Committee urges the State party to take effective measures to combat the inflow and consumption of illicit drugs and **to provide adequate treatment and rehabilitation for drug users.**

70. (...) The Committee also recommends that the State party establish time-bound targets for extending the provision of free testing services, free treatment for HIV and **harm reduction services** to all parts of the country."

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para. 22(2) "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers."

## V. Harm Reduction

### a. Legality of harm reduction services under the Drug Conventions

- Decision 74/10, Flexibility of Treaty Provisions as Regards Harm Reduction Approaches, prepared by UNDCP 's Legal Affairs Section, E/INCB/2002/W.13/SS.5, 30 September 2002, [http://www.ungassondrugs.org/index.php?option=com\\_content&task=view&id=87&Itemid=102](http://www.ungassondrugs.org/index.php?option=com_content&task=view&id=87&Itemid=102).

*Para. 12:*

“it could easily be argued that the Guiding Principles of Drug Demand Reduction provide a **clear mandate for the institution of harm reduction policies** that, respecting cultural and gender differences, provide for a more supportive environment for drug users.”

*Para. 17 on **Substitution and Maintenance Treatment** :*

“(…) [methadone] **substitution/maintenance treatment could hardly be perceived as contrary to the text or the spirit of the treaties.** It is a commonly accepted addiction treatment, with several advantages and few drawbacks. Although results are mixed and dependent on many factors, its implementation along sound medical practice guidelines would not constitute a breach of treaty provisions.”

*Para. 29 on **Needle-or Syringe-Exchange**:*

“This is rather **straightforward strategy to reduce the risk of contagion with communicable diseases** to IV drug abusers who share needles or syringes. It has been introduced in many countries around the world, to help reduce the rate of intravenous transmission of HIV and other transmittable diseases.”

*Paras. 23, 27 and 28 on **Drug-injection Rooms**:*

“[..] **even supplying a drug addict with the drug he depends on could be seen as a sort of rehabilitation and social reintegration,** assuming that once his drug requirements are taken care of, he will not need to involve himself in criminal activities to finance his dependence.”

“It would be difficult to assert that, in establishing drug-injection rooms, it is the intent of Parties to actually incite to or induce the illicit use of drugs, or even more so, to associate with, aid, abet or facilitate the possession of drugs. [..]

On the contrary, it seems clear that in such cases the intention of governments is to provide healthier conditions for IV drug abusers, thereby reducing their risk of infection with grave transmittable diseases and, at least in some cases, reaching out to them with counselling and other therapeutic options. Albeit how insufficient this may look from a demand reduction point of view, it would still fall **far from the intent of committing an offence as foreseen in the 1988 Convention.**”

*Para. 35:*

“It could even be argued 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.”

## b. UN endorsement of harm reduction

The following language provides a basis for discussion on the inclusion of harm reduction language in the declaration/annex. This issue should be discussed at:

**A. Drug and Dependence Prevention, Treatment, Care and Rehabilitation** (amendment of the title);

**A.II. Comprehensive Approach, para. 9 and 17;** and

**A.III. Human Rights and Dignity of Drug Users, para. 18 and 20.**

- Declaration on the Guiding Principles of Drug Demand Reduction, adopted by the UN General Assembly Special Session (UNGASS) in Resolution S-20/4, Measures to enhance international cooperation to counter the world drug problem (1998) [A/RES/S-20/4](http://www.un.org/ga/20special/demand.htm), <http://www.un.org/ga/20special/demand.htm>.

*Para. 8:*

“The following principles shall guide the formulation of the demand reduction component of national and international drug control strategies, in accordance with the principles of the Charter of the United Nations and international law, in particular, respect for the sovereignty and territorial integrity of States; human rights and fundamental freedoms and the principles of the Universal Declaration of Human Rights; and the principle of shared responsibility:

(...)

(b) Demand reduction policies shall:

(i) Aim at preventing the use of drugs and at reducing the **adverse consequences of drug abuse;**”

*Para. 10:*

“Demand reduction programmes should cover all areas of prevention, from discouraging initial use to **reducing the negative health and social consequences of drug abuse**. They should embrace information, education, public awareness, early intervention, counselling, treatment, rehabilitation, relapse prevention, aftercare and social reintegration. Early help and access to services should be offered to those in need.”

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf).

Preamble:

“*The Parties,*

*Concerned with the **health and welfare of mankind**”*

- GA Res 60/262, Political Declaration on HIV/AIDS, [A/RES/60/262](http://www.un.org/ga/res/60/res60262.htm) (2006)

para. 22:

“Reaffirm that the prevention of HIV infection must be the mainstay of national, regional and international responses to the pandemic, and therefore commit ourselves to intensifying efforts to **ensure** that a wide range of prevention programmes that take account of local circumstances, ethics and cultural values is available in all countries, particularly the most affected countries, including (...)expanded access to essential commodities, including male and female condoms and **sterile injecting equipment; harm-reduction efforts related to drug use;** (...)”

- GASS on AIDS Res S-26/2, adopting the Declaration of Commitment on HIV/AIDS (2001) [A/RES/S-26/2](#)

para. 52:

“By 2005, **ensure**: that a wide range of prevention programmes which take account of local circumstances, ethics and cultural values, is available in all countries, particularly the most affected countries, including (...) expanded access to essential commodities, including male and female condoms and **sterile injecting equipment; harm-reduction efforts related to drug use**; (...)”

- Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), UN Doc. E/CN.7/590, available at <http://www.stopdrogama.org/download/004.pdf>.

para. 3.109:

“‘Treatment’ will typically include counseling, group counseling or referral to a support group, which may involve out-patient day care, day support, in-patient care or therapeutic community support. A number of treatment facilities may prescribe **pharmacological treatment such as methadone maintenance**, but treatment referrals are most frequently to drug-free programmes.”

- Practical Guidelines for Intensifying HIV Prevention: Towards Universal Access (UNAIDS 2007), [http://data.unaids.org/pub/Manual/2007/jc1274-towardsuniversalaccess\\_en.pdf](http://data.unaids.org/pub/Manual/2007/jc1274-towardsuniversalaccess_en.pdf).

p. 46: “Table 2.2 Injecting drug users

“Why? (...)”

“**Harm reduction measures** such as access to sterile injection equipment; drug dependence treatment such as methadone and buprenorphine; community-based outreach; and providing HIV prevention information are among the most effective and cost-effective measures to prevent, the epidemic among injecting drug users.”

“How? (...)”

“Promote adequate coverage of the full range of **harm reduction measures** – particularly sterile syringe and needle access and drug substitution treatment.”

- Commission on Human Rights resolution 2002/31, The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2002-31.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2002-31.doc).

para. 4:

“*Decides* to appoint, for a period of three years, a special rapporteur whose mandate will focus on **the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as

reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;”

- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to Sweden (28 Feb. 2007) [UN Doc A/HRC/4/28/Add.2](#)

61. These results are in line with the worldwide experience that harm-reduction programmes, including needle exchange programmes and associated health care, promote and protect the health of drug users and reduce transmission of communicable diseases such as hepatitis B and C and HIV, including vertical transmission to newborn children from pregnant intravenous drug users or their partners. These programmes are highly cost-effective.

62. Harm-reduction programmes are endorsed by the World Health Organization, the United Nations Office on Drugs and Crime and the Joint United Nations Programme on HIV/AIDS. (...) such an important human rights issue cannot be left to the discretion of local government. **The Special Rapporteur emphasizes that the Government has a responsibility to ensure the implementation, throughout Sweden and as a matter of priority, of a comprehensive harm-reduction policy, including counselling, advice on sexual and reproductive health, and clean needles and syringes.”**

- Committee on ESC Rights, Concluding Observations: Tajikistan (24 November 2006) UN Doc No [E/C.12/TJK/CO/1](#).

69. The Committee urges the State party to take effective measures to combat the inflow and consumption of illicit drugs and **to provide adequate treatment and rehabilitation for drug users.**

70. (...) The Committee also recommends that the State party establish time-bound targets for extending the provision of free testing services, free treatment for HIV and **harm reduction services** to all parts of the country.”

- Committee on ESC Rights, Concluding Observations: Ukraine (4 January 2008) UN Doc No [E/C.12/UKR/CO/5](#).

para. 28:

“The Committee is gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the **limited access by drug users to substitution therapy.**”

para. 51:

“The Committee recommends that the State party (...) **make drug substitution therapy and other HIV prevention services more accessible to drug users.**”

## VI. Access to Essential Medicines

The following language is relevant to the issue of access to essential medicine, which should be discussed in relation to:

### **A.III. Human Rights and Dignity of Drug Users, para. 18 and 20; and A.V. Availability and Accessibility, new paras. 1, 2 and 4.**

- Committee on ESC Rights, Concluding Observations: Ukraine (4 January 2008) UN Doc No [E/C.12/UKR/CO/5](#).

para. 28:

“The Committee is gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the **limited access by drug users to substitution therapy.**”

para. 51:

“The Committee recommends that the State party (...) **make drug substitution therapy and other HIV prevention services more accessible to drug users.**”

- The WHO Model Lists of Essential Medicines, 15th list, March 2007, [http://www.who.int/medicines/publications/08\\_ENGLISH\\_indexFINAL\\_EML15.pdf](http://www.who.int/medicines/publications/08_ENGLISH_indexFINAL_EML15.pdf).

p. 25:

“24.5 Medicines used in substance dependence programmes” include **methadone** and **buprenorphine**, and **opioid analgesics**, such as **morphine**

- World Health Organization and International Narcotics Control Board, Assistance Mechanism to Facilitate Adequate Treatment of Pain Using Opioid Analgesics. Joint Report of the Director-General of the World Health Organization and the President of the International Narcotics Control Board, 2 March 2007, [http://www.who.int/medicines/areas/quality\\_safety/Joint\\_Report-WHO-INCB.pdf](http://www.who.int/medicines/areas/quality_safety/Joint_Report-WHO-INCB.pdf)

Creating Access to Controlled Medicines Program as mechanism to facilitate adequate treatment of pain using opioid analgesics and other medicines listed in WHO Model List of Essential Medicines made from controlled substances

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf)

Preamble:

“Recognizing that the **medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes**”

- WHO Briefing note: Access to Controlled Medications Programme (March 2007), [http://www.who.int/entity/medicines/areas/quality\\_safety/AccessControlledMedicationsBrNote.pdf](http://www.who.int/entity/medicines/areas/quality_safety/AccessControlledMedicationsBrNote.pdf).  
pp. 3-4:  
“Proposed programme objectives and deliverables (...) To achieve this general objective, the programme has the following specific objectives: • improving access to effective treatment by **reviewing legislation and administrative procedures** (...)”
- Resolution WHA 58.22 on Cancer prevention and control (Ninth plenary meeting, 25 May 2005 – Committee B, third report), [http://www.who.int/gb/ebwha/pdf\\_files/WHA58/WHA58\\_22-en.pdf](http://www.who.int/gb/ebwha/pdf_files/WHA58/WHA58_22-en.pdf).  
“The Fifty-eighth World Health Assembly, (...)”  
“1. URGES Member States:  
(...)  
(15) to **ensure the medical availability of opioid analgesics** according to international treaties and recommendations of WHO and the International Narcotics Control Board and subject to an efficient monitoring and control system;”  
“2. REQUESTS the Director-General:  
(...)  
(18) to examine jointly with the International Narcotics Control Board the feasibility of a possible assistance mechanism that would **facilitate the adequate treatment of pain using opioid analgesics**;”
- Resolution ECOSOC 2005/25 on Treatment of pain using opioid analgesics (36th plenary meeting 22 July 2005), <http://www.un.org/docs/ecosoc/documents/2005/resolutions/Resolution%202005-25.pdf>.  
“*The Economic and Social Council,*  
(...)  
1. *Recognizes* the importance of improving the treatment of pain, **including by the use of opioid analgesics**, as advocated by the World Health Organization, especially in developing countries, and calls upon Member States to remove barriers to the medical use of such analgesics, taking fully into account the need to prevent their diversion for illicit use;  
2. *Invites* the International Narcotics Control Board and the World Health Organization to examine the feasibility of a possible assistance mechanism that would facilitate the adequate treatment of pain using opioid analgesics and to inform the Commission on Narcotic Drugs at its forty-ninth session of the results of that examination;”
- Framework: Access to Controlled Medications Programme (WHO, 2007), [http://www.who.int/medicines/areas/quality\\_safety/Framework\\_ACMP\\_withcover.pdf](http://www.who.int/medicines/areas/quality_safety/Framework_ACMP_withcover.pdf).
- Commission on Narcotic Drugs, Report on the forty-ninth session, [E/CN.7/2006/10](http://www.un.org/News/Press/docs/2006/20060710.ecn.7.html).

“99. Regarding the issue of supply of and demand for opiates used for medical purposes, the Commission welcomed the joint activities undertaken by WHO and the International Narcotics Control Board to facilitate the treatment of pain using opioid analgesics. Governments were urged to ensure that opioids were available to patients who required them.”

General comment 14 on the right to the highest attainable standard of health talks about the right of terminally ill persons to pain relief (para 25) and about state obligations to ensure nondiscriminatory access to palliative care.

- Committee on Economic, Social and Cultural Rights, General Comment on the Right to the Highest Attainable Standard of Health, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En)

“Older persons

25. With regard to the realization of the right to health of older persons, the Committee, in accordance with paragraphs 34 and 35 of General Comment No. 6 (1995), reaffirms the importance of an integrated approach, combining elements of preventive, curative and rehabilitative health treatment. Such measures should be based on periodical check-ups for both sexes; physical as well as psychological rehabilitative measures aimed at maintaining the functionality and autonomy of older persons; and attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity.”

“34. In particular, States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services . . .”

- International Narcotics Control Board, Report of the International Narcotics Control Board for 1995 Availability of Opiates for Medical Needs, Special report prepared pursuant to Economic and Social Council resolutions 1990/31 and 1991/43

...the drug conventions create a "dual drug control obligation: to ensure adequate availability of narcotic drugs, including opiates, for medical and scientific purposes, while at the same time preventing illicit production of, trafficking in and use of such drugs."

## **VII. Extradition and Human Rights Protections against Torture and Cruel, Inhuman and Degrading Treatment (“Principle of Non-Refoulement”) and for the Rights to Life and Due Process**

*The language quoted in this section provides basic references on extradition and human rights protections against torture and cruel, inhuman and degrading treatment or punishment and for the*

rights to life and due process. Discussions on extradition could arise with regards to the following paragraphs:

**B.I. Enhancing Cooperation, Coordination and Law Enforcement Operations to Reduce Supply, para. 5;**  
**B.V. Maintaining Law Enforcement, para. 44; and**  
**F.I. Extradition, paras. 1, 2 and 3.**

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <http://www2.ohchr.org/english/law/cat.htm>.  
  
Article 3.1  
“No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”
- International Covenant on Civil and Political Rights (1966), [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)  
  
Article 7:  
“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989), <http://www2.ohchr.org/english/law/ccpr-death.htm>.  
  
Article 1:  
“2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.”
- UN Human Rights Committee, General Comment No. 20 (1992), on non-refoulement, <http://www.unhchr.ch/tbs/doc.nsf/0/6924291970754969c12563ed004c8ae5?Opendocument>  
  
para. 9:  
“States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement.”
- Convention relating to the Status of Refugees (1951), <http://www2.ohchr.org/english/law/refugees.htm>.  
  
Article 33:  
“1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

- Inter-American Convention to Prevent and Punish Torture (1985), <http://www.oas.org/juridico/English/Treaties/a-51.html>.

Article 13:

“Extradition shall not be granted nor shall the person sought be returned when there are grounds to believe that his life is in danger, that he will be subjected to torture or to cruel, inhuman or degrading treatment, or that he will be tried by special or ad hoc courts in the requesting State.”

- European Convention for the Protection of Human Rights and Fundamental Freedoms (1951), <http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/EnglishAnglais.pdf>.

Article 3: Prohibition of Torture

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

- Interpreted in *Soering v. the United Kingdom* 11 Eur. Ct. H.R. (ser. A) (1989)

Para. 111: “[H]aving regard to the very long period of time spent on death row in such extreme conditions, with the ever present and mounting anguish of awaiting execution of the death penalty, and to the personal circumstances of the applicant, especially his age and mental state at the time of the offence, **the applicant’s extradition to the United States would expose him to a real risk of treatment going beyond the threshold set by Article 3 (art. 3)**. A further consideration of relevance is that in the particular instance the legitimate purpose of extradition could be achieved by another means [extradition or deportation to Germany] which would not involve suffering of such exceptional intensity or duration.”

“FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that, **in the event of the Secretary of State’s decision to extradite the applicant to the United States of America being implemented, there would be a violation of Article 3; (...)**”

- European Convention on Extradition, Paris, 13.XII.1957, <http://conventions.coe.int/Treaty/EN/Treaties/Html/024.htm>.

“Article 11 – Capital punishment

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such offence the death-penalty is not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death-penalty will not be carried out.”

- UN Model Treaty on Extradition adopted by General Assembly resolution 45/116, subsequently amended by General Assembly resolution 52/88, [http://www.unodc.org/pdf/model\\_treaty\\_extradition.pdf](http://www.unodc.org/pdf/model_treaty_extradition.pdf).

Article 3: Mandatory grounds for refusal

“Extradition shall not be granted in any of the following circumstances:

(...)

(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14;”

## VIII. Crop eradication/Alternative development

*The following language is relates to crop eradication and alternative development. The issue is discussed at D.III. A Balanced, Long-Term Approach to Address Illicit Drug Crop Cultivation, para. 21 and new paras. 26 (bis) and 33 (bis).*

- Alternative Development: A Global Thematic Evaluation (UNODC 2005), [http://www.unodc.org/documents/alternative-development/05-82516\\_Ebook.pdf](http://www.unodc.org/documents/alternative-development/05-82516_Ebook.pdf)
- Key points identified by EU experts to be included in the conclusion of the open-ended intergovernmental expert working group on international cooperation on the eradication of illicit drug and on alternative development, UNODC/CND/2008/WG.3/CRP.4, [http://www.ungassondrugs.org/images/stories/UNODC\\_CND2008WG3\\_CRP4.pdf](http://www.ungassondrugs.org/images/stories/UNODC_CND2008WG3_CRP4.pdf).

p. 2-3:

“This will require Member States to:

(...)

**- Do not make development assistance conditional on reductions in illicit drug crop cultivation.”**

- Note by the Secretariat on the results attained by Member States in achieving the goals and targets set at the twentieth special session of the General Assembly, the limitations and problems encountered and the way forward: international cooperation on the eradication of illicit drug crops and on alternative development, UNODC/CND/2008/WG.3/2, <http://www.unodc.org/unodc/en/commissions/UNGASS/04-OEI-EWG3-IllicitDrugCrops-2-4Jul-2008.html>.

para. 23:

“The working group may wish to consider the following proposed recommendations for action by international agencies:

(...)

(b) Mainstream counter-narcotics and alternative development approaches into the broader development agenda. The development community, in particular the international financial institutions, must incorporate counter-narcotics approaches into their wider development agendas; and the counter-narcotics community must include development approaches in its plans and strategies;”

## IX. Achievements and Procedural Issues

### a. Achievements

*The following language is useful for discussion on the language used in A.I. Enhancing International Cooperation, para. 1.*

- Report on the meeting of the open-ended intergovernmental expert working group on drug demand reduction, held in Vienna from 15 to 17 September 2008 (19 September 2008), [UNODC/CND/2008/WG.4/3](#)

Para. 73:

“The 1998 commitments to attain significant and measurable results in the drug demand reduction field had been attained to a limited extent, but **containment of the world drug problem had not been achieved**, due to a lack of a balanced and comprehensive approach.”

- “Making drug control ‘Fit for purpose’: Building on the UNGASS decade” - Report by the Executive Director of the United Nations Office on Drugs and Crime as a contribution to the review of the twentieth special session of the General Assembly, [E/CN.7/2008/CRP.17](#)

p. 9:

“Despite the caveats noted above, there is enough evidence to show that the drug problem has been contained. Containment of a problem is not, of course, the same thing as its solution. The drug problem is still with us. The fundamental objective of the Conventions – restricting the use of psychoactive substances under international control to medical and scientific use – has not yet been achieved. **Some of the more ambitious targets set at UNGASS in 1998 remain elusive.**”

### b. Call on UN agencies

*The following are examples of position papers published by UN agencies with regards to principles of demand reduction and the Right to Health. They are relevant for the discussion on the addition of a new paragraph to call on agencies to be proactive in identifying instances where principles of demand reduction and the right to health have been breached in section A.IV. Based on Scientific Evidence.*

- World Health Organization, United Nations Office of Drugs and Crime, Joint United Nations Programme on AIDS, “Position Paper: Substitution Maintenance Therapy in the Management of Opioid Dependence and HIV/AIDS Prevention” (Geneva: WHO, UNODC, UNAIDS, 2004), [http://www.who.int/substance\\_abuse/publications/en/PositionPaper\\_English.pdf](http://www.who.int/substance_abuse/publications/en/PositionPaper_English.pdf)

“The World Health Organization (WHO), the United Nations Office on Drugs and Crime (UNODC) and the Joint United Nations Programme on HIV/AIDS (UNAIDS), have developed a joint position on substitution maintenance therapy for opioid dependence. Based on a review of scientific

evidence and oriented towards policymakers, the WHO/UNODC/UNAIDS position paper covers a wide range of issues, from the rationale for this treatment modality, to the specific considerations regarding its provision for people with HIV/AIDS.”

23. “Substitution maintenance therapy is one of the most effective types of pharmacological therapy of opioid dependence. There is consistent evidence from numerous controlled trials, large longitudinal studies and programme evaluations, that substitution maintenance treatment for opioid dependence is associated with generally substantial reductions in illicit opioid use, criminal activity, deaths due to overdose, and behaviours with a high risk of HIV transmission.”

25. “The prescription for substitution therapy and administration of opioid agonists to persons with opioid dependence – in the framework of recognized medical practice approved by competent authorities – is in line with the 1961 and 1971 Conventions on narcotic drugs and psychotropic substances.”

- World Health Organization, United Nations Office of Drugs and Crime, “Discussion Paper: Principles of Drug Dependence Treatment” (WHO, UNODC, 2008), [http://www.who.int/substance\\_abuse/publications/principles\\_drug\\_dependence\\_treatment.pdf](http://www.who.int/substance_abuse/publications/principles_drug_dependence_treatment.pdf).

p. 2:

“Drug dependence is a preventable and treatable disease, and effective prevention and treatment interventions are available. The best results are achieved when a comprehensive multidisciplinary approach which includes diversified pharmacological and psychosocial interventions is available to respond to different needs. Even taking into account the requirements for the delivery of evidence-based treatment, its costs are much lower than the indirect costs caused by untreated drug dependence (prisons, unemployment, law enforcement, health consequences).”

p.2-3:

“This paper outlines nine key principles for the development of services for treatment of drug use disorders. (...) Depending on human and financial resources available and the quality level of the existing health system in each country, the actions suggested by the present document may be progressively and gradually implemented, taking into account the outlined components for each principle as general framework.”

### **c. Estimates and Statistical Returns**

*The following articles of the 1961 Single Convention on Narcotic Drugs are relevant for discussion on the addition of a new paragraph in section **A.V. Availability and Accessibility**, including a commitment to comply with the treaty obligations to submit estimates and statistics to the INCB.*

- Single Convention on Narcotic Drugs (1961) as amended by the 1972 Protocol, [http://www.incb.org/pdf/e/conv/convention\\_1961\\_en.pdf](http://www.incb.org/pdf/e/conv/convention_1961_en.pdf).

“Article 19: Estimates of Drug Requirements

1. The Parties shall furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it in respect of the following matters: (...).

3. Any State may during the year furnish supplementary estimates with an explanation of the circumstances necessitating such estimates.”

“Article 20: Statistical Returns to be Furnished to the Board

1. The Parties shall furnish to the Board for each of their territories, in the manner and form prescribed by the Board, statistical returns on forms supplied by it in respect of the following matters: (...).”