

## **IDPC recommendations for the “ZERO DRAFT” of the UNGASS Outcome Document**

Preparations are gathering pace for the United Nations General Assembly Special Session (UNGASS) on drugs, to be held on the 19<sup>th</sup> to 21<sup>st</sup> April 2016 in New York.<sup>1</sup> Following several months of discussion on procedural elements, attention is now focused on negotiating the content of the “short, substantive, concise and action-orientated outcome document comprising a set of operational recommendations” to be approved by the General Assembly next April.<sup>2</sup>

At the CND intersessional meeting on 12<sup>th</sup> June, countries and regional groups were invited to submit their first ideas for what could be included in this Outcome Document, by a deadline of 11<sup>th</sup> September. The USA were the first country to respond to the request by drafting (and, notably, disseminating widely for comments) their “Nonpaper: UNGASS on Drugs” on 24<sup>th</sup> June. The European Union had already presented a set of twenty recommendations for the UNGASS Outcome Document at the General Assembly High-Level Thematic Debate on 7<sup>th</sup> May in New York, and the Community of Latin American and Caribbean States (CELAC) agreed an initial ‘common vision’ for the UNGASS at the ministerial meeting in Quito on 21<sup>st</sup> and 22<sup>nd</sup> May.

The International Drug Policy Consortium (IDPC) – a network of more than 140 NGOs from around the world – has been following the UNGASS preparations closely, and has already provided recommendations for the substantive issues across the breadth of drug policy that should

be considered during the UNGASS debates.<sup>3</sup> To further support this process, this Advocacy Note presents specific recommendations from the Consortium regarding the structure and content of the Outcome Document, incorporating some reflections on the positions taken thus far by the EU, CELAC and the USA. We hope that member states will consider these in their deliberations, and in their own national or regional submissions and negotiations.

### **Four specific UN actions to include in the UNGASS Outcome Document:**

- 1. Agree upon a concerted UN-wide effort and action plan to close the gap in the availability of, and access to, controlled substances for medical use. (See page 3)**
- 2. Set up a technical working group to review the headline objectives of the international drug control system, with a view to agreeing a new and comprehensive approach in 2019. (See page 2)**
- 3. Set up an expert advisory group to review contemporary tensions within the UN drug control architecture. (See page 5)**
- 4. Establish a robust mechanism through which best practices and experiences can be shared between governments and professionals. (See page 4)**

## The structure of the Outcome Document

IDPC recommends that the preamble of the UNGASS Outcome Document concisely states the current state of progress in achieving drug control objectives, and the challenges that need to be addressed in the future.

This preamble could be followed by a text structured according to the same five thematic areas that have been agreed for the high-level workshops and discussions to date: drugs and health; drugs and crime; drugs and human rights, youth, women, children and communities; new challenges, threats and realities; and alternative development. These five thematic areas have already been shown to capture the breadth of the issues that need to be addressed, and should lead to a forward-looking statement on the future of international drug control. They also allow for strong, specific operational recommendations to be formulated in the Outcome Document, and may even merit consideration as a structure for the next Political Declaration in 2019. IDPC's recommendations below are therefore outlined using this structure.

### The Book of Authorities:

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

## The Preamble

The preamble of the UNGASS Outcome Document should clearly articulate the need for drug policies to be designed and implemented consistent with broader UN objectives and mandates such as human rights, public health, human security, and social and economic development. This UNGASS also comes at a time when the international community will have articulated a new and

comprehensive set of objectives and indicators through the 'Sustainable Development Goals'. The time is right, therefore, to broaden the headline objectives of the drug control system to bring them into line with these wider multilateral goals. A technical working group should be established to review the headline objectives of the international drug control system, with a view to proposing a new and comprehensive approach for adoption by the CND in 2019.

There has been considerable discussion on the current tensions between the current drug control conventions and other UN treaties, and certain policy developments in some countries. The US "Nonpaper" states that "as a starting point, it is essential that Member States use the UNGASS to reaffirm support for the three UN drug-control conventions". Similarly, the EU recommendations start with referring to the conventions (and the Universal Declaration of Human Rights) as the "cornerstone of the global response to the world drug problem" and that the "drug control treaties must be acknowledged and respected in developing and implementing national drug policies and laws, as well as regional and international programmes".

However, IDPC prefers to take the statement from UN Secretary-General Ban Ki-moon – "I urge Member States to use these opportunities to conduct a wide-ranging and open debate that considers all options"<sup>4</sup> – as the starting point for the UNGASS. This means not avoiding legitimate questions that have been raised about the treaty framework by several UN agencies (including the treaty-mandated bodies, the INCB and WHO), several member states and many civil society organisations. Similarly, this is also an important opportunity to move away from restating unwavering support for the 2009 Political Declaration on drugs – whose targets remain to "eliminate or reduce significantly and measurably" the illicit cultivation of opium poppy, coca bush and cannabis plant, as well as drug demand, drug-related harm, drug trafficking, the diversion of precursors, and money-laundering by 2019.<sup>5</sup> As the latest UNODC World Drug Report shows,<sup>6</sup> these targets are not, and cannot, be met – and the UNGASS Outcome Document must reflect this reality.

In order to create the “short, substantive, concise and action-orientated outcome document” for the UNGASS, the IDPC network recommends the following actions be included:

## 1. Drugs and health

### A: Removing criminal sanctions for drug use

- Commit to upholding everyone’s right to the highest attainable standard of health, as a central aim of international drug control. The issue of drug use and drug dependency should be dealt with solely in the public health sphere.
- Commit to the principle of ‘support, don’t punish’ – following both the US “Nonpaper” (“people who use drugs should receive support, treatment and protection, rather than be punished”) and the EU and CELAC positions.
- Remove criminal sanctions for drug consumption and other non-violent, low-level offences – recalling that, under the UN drug conventions, alternatives to conviction and punishment can be applied to drug-related offences of a minor, non-violent nature. The removal of criminal sanctions for drug use has been endorsed by the WHO,<sup>7</sup> UNAIDS<sup>8</sup> and UNDP,<sup>9</sup> among others.

### B: Improving access to controlled medicines

- Acknowledge the failure of the international drug control system and member states to ensure adequate access to controlled medicines, particularly for pain and palliative care, in many parts of the world.
- Agree upon a concerted UN-wide effort and action plan – including WHO, INCB, UNODC and UNDP – to close the gap in the availability of, and access to, controlled substances for medical use while reinforcing efforts to prevent their diversion and misuse where relevant.
- Establish and commit to – as part of the action plan – a timeline for the implementation of a target for universal coverage.
- Ensure adequate funding for a dedicated programme led by WHO, in partnership with UNODC and other relevant agencies, to assist countries in assessing and addressing the barriers to adequate availability of controlled medicines.

- Support WHO recommendations to take the importance of access for medical use fully into account in scheduling decisions.

### C: Promoting harm reduction and evidence-based drug dependence treatment

- Ensure universal access to harm reduction services for people who inject drugs – as outlined by WHO, UNODC and UNAIDS.<sup>10</sup>
- Acknowledge that member states that have implemented these interventions “have remarkably reduced the number of HIV infections, with some countries approaching the elimination of injecting drug use-related transmission of HIV”.<sup>11</sup>
- Scale-up investments in, and ensure supportive legal environments for, evidence-based harm reduction, prevention and treatment programmes.
- Acknowledge that drug dependence treatment must always be voluntary and based on individual choice – and that, according to the World Drug Report, only one in ten people who use drugs are “problem drug users”,<sup>12</sup> and may not therefore require treatment or intervention.
- Commit to a timeline for the closure of compulsory detention centres for people who use drugs – in line with the Joint UN Statement on this issue<sup>13</sup> – as well as the end of other punitive measures such as compulsory registration, forced urine testing and corporal punishment.

## 2. Drugs and crime

### A: Moving away from a focus on punishment

- Emphasise the need for law enforcement strategies to learn from what has worked, and not worked, in the past – adjusting to new challenges without contributing to negative consequences such as geographical or substance displacement (the so-called ‘balloon effect’).<sup>14</sup>
- Acknowledge that severe criminal sanctions imposed indiscriminately on drug offenders have not worked as a deterrent – yet have led to overloaded criminal justice systems and prisons, created huge financial burdens,

and exacerbated a range of health and social harms.

- Recognise that justice systems derive legitimacy from their ability to enforce laws efficiently, fairly and effectively [as highlighted in the US “Nonpaper”].
- Member states commit to review their drug sentencing frameworks to ensure proportionality of sentencing (taking into account, for example, the level of engagement in the drug trade, whether violence was involved in the offense, and any other mitigating factors) and that incarceration is only used as a last resort.
- Promote collaboration between law enforcement officials, justice authorities and health and social services for the effective implementation of alternatives to arrest, prosecution and incarceration.<sup>15</sup>

## **B. Reorienting law enforcement and supply reduction**

- Set up a technical working group to review the headline objectives of the international drug control system, with a view to agreeing a new and comprehensive approach in 2019. This new approach should move towards what UNDP have described as “a comprehensive set of metrics to measure the full spectrum of drug-related health issues, as well as the broader impact of drug control policies on human rights, security and development”.<sup>16</sup>
- Refocus supply reduction strategies to ensure that they are primarily aimed at reducing the negative consequences of criminal behaviour associated with drug markets – i.e. targeted at individuals and organisations with a significant or controlling role in the supply of drugs, and/or who are engaged in violence, intimidation and corruption.
- Establish a robust mechanism for the global exchange of information, research and best practice, including the launching of pilot programmes and research initiatives, in order to accelerate improvements in this area.

## **C: Ending the use of the death penalty for drug offences**

- Demand [as the EU, UNODC, INCB and others have done] the abolition of the death penalty for drug-related crimes, as well as the abolition

of other enforcement practices and sanctions which are not in line with the principles of human dignity, liberty, democracy, equality, solidarity, the rule of law and human rights.<sup>17</sup>

## **D: Coordinating actions against organised crime, money laundering and corruption**

- Strengthen democratic institutions to be more effective in countering organised crime, corruption and impunity; and strengthen social measures to reduce poverty and marginalisation, in order to weaken the main recruiting ground for illicit survival economies and criminal groups.
- Ensure that efforts to counter organised crime, money laundering and corruption address the broader underlying issues and do not only focus on illicit drug trafficking; the Convention Against Corruption (UNCAC) and the Convention Against Transnational Organized Crime (UNTOC) are more appropriate guiding instruments in this regard than the 1988 Convention Against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances.
- Consider the option of regulating parts of the drugs market, for example cannabis or certain low-risk NPS, in order to reduce the source of illicit income for organised crime and thereby reduce the negative impacts of violence, corruption, economic distortions and the undermining of democracy and the rule of law.
- Increase the effectiveness of measures against money laundering and tax evasion by introducing regulations in financial markets, in particular mechanisms for obtaining ‘beneficial ownership’ information of legal persons.

## **3. Drugs, human rights, youth, women, children and communities**

### **A: Promoting human rights**

- Emphasize the need to implement drug control policy consistent with the core UN mandates of peace, security, human rights and development [as highlighted in the US, EU and CELAC inputs].
- Ensure due respect for universal human rights and the rule of law, which is essential for the effective implementation of the international drug control system.<sup>18</sup>

- Ensure that the strengthening of international judicial and law enforcement cooperation and intelligence sharing must be carried out in full compliance with human rights standards. Such cooperation should not take place if there is a risk that doing so could facilitate human rights violations (such as the use of the death penalty, torture or inhumane treatment).
- Request UNODC to implement the provisions outlined in its 2012 position paper ‘UNODC and the Promotion and Protection of Human Rights’,<sup>19</sup> in order to assess the human rights impact of its own programmes.
- Request the UNODC Executive Director to include details of these human rights impact assessments undertaken in his annual reports to the CND, and in the World Drug Report.

## **B: The incarceration of women for non-violent drug offenses**

- Acknowledge that women incarcerated for non-violent drug offences represent the fastest growing prison population globally, with devastating impacts on their lives, their families and society as a whole.
- Encourage member states to address the stigma and discrimination faced by women involved in drug use and drug markets, and ensure the provision of gender-sensitive treatment, harm reduction, health, legal and social services.

## **4. New challenges**

### **A: Review the scheduling system**

- Ensure that scheduling decisions do not undermine public health objectives and the need to secure greater access to controlled medicines – in line with scientific evidence and the advice provided by WHO’s Expert Committee on Drug Dependence.
- Ensure greater support and funding for WHO’s Expert Committee on Drug Dependence to carry out their core functions within the scheduling system.

### **B: Address new challenges and tensions**

- Create an expert advisory group to recommend how best to deal with the new challenges in

addressing contemporary problems within the international drug control system – similar to the 1990 and 1998 UNGASS meetings, where special advisory groups played a useful role.<sup>20</sup>

- Request this expert advisory group to address challenges such as regulated cannabis markets, tensions with human rights obligations (including indigenous rights), the traditional use of coca leaf chewing,<sup>21</sup> and [as included in the EU position] “the urgent need for improving access to and availability of controlled medicines” while also “looking at possible obstacles within the framework of the Conventions”.
- Request this expert advisory group to report back on its findings and recommendations in the lead-up to the 2019 review.

## **5. Alternative development**

- Refrain from linking alternative development programmes to unrealistic targets such as the elimination of illicit cultivation of opium poppy, coca bush and cannabis plants [as the US “Nonpaper” does].
- Ensure that alternative development programmes are properly sequenced: development must come first, and the eradication of illicit crops is counter-productive unless alternative livelihoods are already firmly in place. [As the EU recommendations state: “alternative development proves to be successful and sustainable if the corresponding programs are non-conditional, non-discriminating and, if eradication is scheduled, properly sequenced”].
- Commit to decriminalising the small-scale cultivation of plants used for the illicit production of narcotic drugs.
- Acknowledge that alternative livelihood goals and strategies should be integrated into local, regional and national development plans; and be designed in coherence with fair international trade policies and agreements.

## **Civil society engagement**

Additionally, IDPC calls upon member states to acknowledge and support the Civil Society Task Force (CSTF) – including financially – which has been created as the official NGO

engagement mechanism for the UNGASS.<sup>22</sup> We ask that member states support the inclusion of civil society speakers in UNGASS plenaries, roundtables and panel discussions, in consultation with the CSTF – and it is notable that civil society interventions were not allowed at the recent High Level Thematic Debate in New York in May.

At least three months prior to the UNGASS, the CSTF will hold a one-day Interactive Civil Society Hearing in New York to be presided over by the President of the General Assembly (similar to events held in connection with recent high level meetings on HIV/AIDS, migration, non-communicable diseases, and the post-2015 development agenda). This Hearing will provide an essential forum for civil society inputs to be heard, with a President's Summary to be circulated to member states and other stakeholders in preparation for UNGASS.

## Endnotes

1. <http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016>
2. As per CND resolution 58/8, <http://www.un.org/Docs/journal/asp/ws.asp?m=E/2015/28>
3. <http://idpc.net/publications/2014/10/the-road-to-ungass-2016-process-and-policy-asks-from-idpc>
4. <http://www.un.org/sg/statements/index.asp?nid=6935>
5. <https://www.unodc.org/documents/ungass2016/V0984963-English.pdf>
6. The Report states that "According to the most recent data available, there has been little change in the overall global situation regarding the production, use and health consequences of illicit drugs": <http://www.unodc.org/wdr2015/>
7. <http://www.who.int/hiv/pub/guidelines/keypopulations/en/>
8. <http://www.unaids.org/en/resources/campaigns/2014/2014gapreport/gapreport>
9. [www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/)
10. [http://www.who.int/hiv/pub/idu/targets\\_universal\\_access/](http://www.who.int/hiv/pub/idu/targets_universal_access/)
11. <https://www.unodc.org/documents/ungass2016/V1403583-1-2.pdf>
12. <http://www.unodc.org/wdr2015/>
13. <http://www.unodc.org/southeastasiaandpacific/en/2012/03/detention-centres/story.html>
14. [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_51/1\\_CRPs/E-CN7-2008-CRP17\\_E.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_51/1_CRPs/E-CN7-2008-CRP17_E.pdf)
15. Language drawn from CND Resolution 58/5, <http://www.un.org/Docs/journal/asp/ws.asp?m=E/2015/28>
16. [www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/)
17. Language drawn from the EU Statement at the UNGA High Level Debate, [http://eu-un.europa.eu/articles/en/article\\_16424\\_en.htm](http://eu-un.europa.eu/articles/en/article_16424_en.htm)
18. [https://www.unodc.org/documents/commissions/CND/Drug\\_Resolutions/2000-2009/2008/CND\\_Res-2008-12e.pdf](https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2000-2009/2008/CND_Res-2008-12e.pdf)
19. [https://www.unodc.org/documents/justice-and-prison-reform/UNODC\\_Human\\_rights\\_position\\_paper\\_2012.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf)
20. <http://www.tni.org/briefing/prospects-treaty-reform-and-un-system-wide-coherence-drug-policy>
21. The Quito Declaration refers back to the earlier summit statement, the Declaración Especial sobre la Hoja de Coca, II Cumbre Doc. 3.19, 28 y 29 de enero de 2014: "Reconociendo el uso tradicional del masticado (Akilliku) de la Hoja de Coca como una manifestación cultural ancestral de los pueblos de Bolivia y Perú, a ser respetada por la comunidad internacional".
22. [https://www.unodc.org/documents/NGO/2015-03-09\\_Civil\\_Society\\_Task\\_Force\\_in\\_brief.pdf](https://www.unodc.org/documents/NGO/2015-03-09_Civil_Society_Task_Force_in_brief.pdf)

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## About this advocacy note

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## About IDPC

The International Drug Policy Consortium is a global network of non-government organisations 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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