

# **The 2012 Commission on Narcotic Drugs Report of Proceedings**

April 2012



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## Executive Summary

2012 marks the centenary of the international drug control system and the first instance of a state being moved to denounce formally any of the UN drug control treaties. The 55<sup>th</sup> session of the Commission on Narcotics Drugs (CND), held in Vienna between 12<sup>th</sup> and 16<sup>th</sup> March, therefore looked set to be a fascinating event and did not disappoint.

As was to be expected, member states favouring the current regime praised its virtues and ongoing relevance 100 years since The Hague Opium Convention. While during the course of the week the US admitted it had been “historically over-reliant on incarceration”, Gil Kerlikowske, the Director of the Office of National Drug Control Policy, also stated that the UN drug control conventions “lay the groundwork for a sophisticated approach to a complicated problem”. Support for such a position and defence of the status quo could also be found in the statements and positions of the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB or Board). Conscious of the growing tensions within the international control system, the Executive Director of the UNODC used his opening address to stress his belief that member states must “sing in harmony”. According to Mr. Fedotov, “we cannot sing out of tune...as commitment is required from us all to acknowledge the importance of the Convention song book”. More explicitly, the President of the INCB, Professor Hamid Ghodse echoed charges made in its Annual Report and criticized Bolivia for threatening the “integrity of the international drug control conventions”.

The plenary statement of President Evo Morales drew attention to the deepening cracks within the Vienna consensus. His explanation of the reasoning behind Bolivia’s denunciation of the 1961 Single Convention on Narcotic Drugs and its ongoing process to re-accede with a reservation on traditional coca use highlighted the inadequacies of the current system to accommodate the specific needs of all states Parties. However, while the unique circumstances in Bolivia have resulted in an unparalleled move to denounce one of the treaties, this year’s CND also saw a number of unprecedented statements questioning the efficacy of the current system in its entirety. At various points of the week, a number of countries spoke about the need to consider approaches that deviate from the punitive architecture of the conventions. For example, the Guatemalan delegate claimed that the “time was right to initiate a dialogue on ‘effective alternative mechanisms’” while the Argentinean Minister of Public Health noted that the time has arrived to “open debate on the consistency and effectiveness of some of the provisions contained in the treaties”. With these statements encouraging examination of policies operating beyond the confines of the current treaty framework, other states also noted more explicitly than in previous years the benefits of policies decriminalising drug possession for personal use; a policy approach permitted by the conventions.

Alongside these opposing perspectives, a ‘reaffirm’ versus ‘reassess’ dynamic that was evident throughout the week, more familiar debates and routines could also be found.

Activities within the Committee of the Whole, where resolutions are negotiated and their wording refined before they are submitted to the Plenary for adoption, encompassed a number of issues, although lacked the overt conflict that has been evident in previous years. Delegates were involved in negotiations around resolutions dealing among other things with a celebration of the one hundredth anniversary of the International Opium Convention, problems of incarceration, alternative development, novel psychoactive substances, the provision of gender-sensitive services, and overdose prevention.

This year also saw over 160 non-governmental organisation (NGO) delegates representing 53 ECOSOC accredited NGOs attend the CND. While the number of NGO representatives on national delegations was less than in previous years, in terms of UN structures for dialogue that go beyond the traditional observer role, overall engagement by the drug control apparatus with civil society remained largely positive. NGO delegates were involved in an Informal Civil Society Hearing, a new and welcome addition to this year's proceedings, as well as informal dialogues with the UNODC Executive Director, the CND Chair and the President of the INCB.

It was at the latter that the Board once again revealed its tendency to engage in "selective reticence": a process whereby the Board sometimes refrains from interdiction where circumstances, and its duties under its mandate, would warrant a robust response. In this case, Professor Ghodse refused to take a position on the death penalty for drug offenses. Moreover, in response to the question, "is there no atrocity large enough that you will not step out of your mandate to condemn it?" the President of the INCB replied "No. 100% not". Such a position stood in stark contrast to the Board's stance on Bolivia's denunciation of the Single Convention. This was an instance of the Board overstepping its mandate and misrepresenting its role as a guardian rather than a watchdog of the conventions.

The mandated role of the international drug control apparatus was also the site of another point of tension at this year's session. While in the main the relationship between civil society and UN bodies remained positive, there were unprecedented problems. These came in the form of a series of confrontations in the margins of the meeting between members of the CND Secretariat and NGO representatives over statements that they intended to deliver to the plenary.

In some respects then, the 55<sup>th</sup> CND might be regarded as a significant, if not landmark, year. Bolivia's denunciation with re-accession and reservation to the Single Convention represents the first formal challenge to the prohibitionist ethos at the heart of the current system; a process that received some support rather than simply opprobrium from members of the regime, if not the UN drug control apparatus. Moreover, although specific in its discontent and isolated in the nature of its actions vis-à-vis the 1961 Convention, Bolivia was not alone in questioning the – until recently apparently – sacrosanct UN drug control treaties. This was particularly the case for some Latin American states who have often suffered disproportionately from the negative effects of supply-oriented strategies and violent drug markets. The decriminalisation of drug possession for personal use could also be seen as a policy approach generating explicit support from states from both within Latin America and Europe. The significance of the US admission of an over reliance on incarceration within its previous policy approaches must also be noted.

That said, this year's CND certainly did not mark the beginning of a brave new world of international drug control. As could be seen from statements and debates within the Plenary and the CoW, the majority of member states who chose to be vocal on the issue remain very much in favour of the status quo, the US and the Russian Federation prominent among them. And these states receive overwhelming

support from both the UNODC and the INCB. In addition, although civil society engagement with CND processes has undoubtedly improved from its low starting point in recent years, there remains significant tension around contributions to the debate. It is clear, however, that debate must be had. Current realities cannot be ignored. Within an environment of increasingly fractured consensus, it is IDPC's view that such debate must be respectful and inclusive. No actor, ECOSOC accredited NGO or state, has called for the abandonment of the treaty system in its entirety. But as some states seek to develop national systems more in line with specific realities and needs of the twenty-first century, some aspects of Mr. Fedotov's opening speech are more apt than ever before. The Executive Director noted on the first day that the international system "contains many voices". The challenge for the following years, therefore, is to truly embrace the spirit of the rest of his message that "all" voices "are welcome" and that "none can be excluded".

## Introduction

2012 marks the centenary of the international drug control system and the first instance of a state being moved to denounce formally any of the UN drug control treaties. The 55<sup>th</sup> session of the Commission on Narcotics Drugs (CND), held in Vienna between 12<sup>th</sup> and 16<sup>th</sup> March, therefore looked set to be a fascinating event and did not disappoint. As expected, member states favouring the current regime praised its virtues and ongoing relevance 100 years since The Hague Opium Convention; behaviour that found support in the statements and positions of the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB or Board). These bodies sought to ensure, and to a certain extent succeeded, that such a celebratory perspective became the dominant narrative of the event. However, a number of Parties to

the conventions openly, and without precedent within the conference rooms of the Vienna International Centre, expressed discontent with the UN's fundamental architecture for drug control. Alongside these opposing perspectives more familiar debates surrounding the INCB's mandate and civil society engagement could also be found.

This report aims to provide a summary of what happened at the meeting, including at various satellite events (See boxes 1, 4 and 5), and offer some analysis of the key discussions and debates; the emerging reaffirm versus reformist debate foremost among them. A supplementary account of the proceedings can be found on the IDPC blog, <http://www.cndblog.org/> (supported by Youth RISE). Official UN documentation pertaining to the session can be found at <http://www.unodc.org/unodc/en/commissions/CND/session/55.html>.

## Mr. Fedotov's Opening Speech at the Plenary: The importance of the "convention songbook"

This is the second year that Yury Fedotov, the Executive Director of UNODC, has delivered the opening speech to the plenary at the CND, one of the duties of the position he has occupied since September 2010. As noted in the IDPC report of last year's CND proceedings,<sup>1</sup> there had been considerable anxiety amongst sections of civil society that his assumption of the leadership role might represent a change of direction for the UNODC, given his background as a career diplomat in the Soviet Union and subsequently the Russian Federation, neither of which have been noted for drug policies in which human rights play a prominent role. However, these fears have to some extent been allayed following his debut CND speech and his first year in office, during which the *Office* has stayed broadly on the track established in the latter years of the tenure of his predecessor, Antonio Maria Costa.

In this year's opening presentation, Mr. Fedotov reiterated some of the themes from last year, including his claim that illicit drugs kill around a quarter of a million people worldwide each year, and that international drug trafficking threatens democracy, stability, health and community across the globe.<sup>2</sup> He offered no radical suggestions for addressing these problems, insisting instead that the international community's responses must continue to be based on the international drug control conventions. These in turn are secured within a century-old drug control project initiated by the 1909 Shanghai Opium Commission and the subsequent Hague Opium Convention of 1912, and which Mr Fedotov sees as having unfinished business. The 'one hundred years of drug control' theme would recur throughout the 55<sup>th</sup> CND, underpinning an ongoing rhetorical defence of the conventions and the drug control edifice founded upon them. In the Executive Director's view, the conventions remain perfectly adequate for the job. His leadership has yet to see interventions that build upon his predecessor's landmark *Fit for Purpose* paper, presented at the 2008 Commission, which aimed to open the discussion about humanising the regime, address its adverse consequences and introduce guiding principles of human rights, proportionality, harm reduction and evidence base.<sup>3</sup>

In elaborating the achievements of the present international drug control regime, Mr. Fedotov acknowledged that while positive results have been achieved, they have occurred "only in some areas". These were listed in terms of drug-producing plant crops destroyed, tonnages seized, and so on – the classic indicators of *process* rather than *outcome*, which IDPC has argued are inadequate to serve as measures of the success or otherwise of drug policies and programmes.<sup>4</sup> Much of the focus of the Executive Director's list of achievements related to the field of supply reduction. This was despite his own explicit criticism of the present approach: "Let me be clear: there can be no reduction in drug supply, without a reduction in drug demand... At present, the balance... [is] firmly

in favour of the supply side". In addition, when he listed the elements that must be included to achieve a proper balance (prevention, treatment, rehabilitation, reintegration and health), he failed to mention the harm reduction approach. Given the strong support for harm reduction across the UN system, this is unfortunate, and points to the continued inability or unwillingness of the upper echelons of the drug control apparatus to adopt a coherent position in relation to wider UN policy.

Moreover, in the brief assessment of the current state of the international drug control system that occupied much of his opening speech, the Executive Director also did not make explicit reference to what was perhaps the most significant event of the past year. Namely, Bolivia's denunciation and re-accession with a reservation to the 1961 Single Convention on Narcotic Drugs that permits traditional use of the coca leaf; a move that was roundly condemned by the INCB in its most recent annual report and, as discussed below, criticised in its President's plenary presentation. However, it is certain that this is something that was uppermost in his mind as Mr. Fedotov closed his presentation. He stated that, "I have no lessons to deliver today. My voice is merely part of a choir containing many different voices. All are welcome, none can be excluded..." Yet, despite invoking this tolerant and democratic analogy, Mr. Fedotov then deftly slipped out of the role of choirboy and into that of orchestral conductor – the one who waves the baton and calls the tune: "...like any choir, we must sing in harmony. We cannot be out of tune. To ensure this, a commitment is required from us all to acknowledge the importance of the Convention songbook". The choral analogy now began to look rather less than democratic, and to assume authoritarian overtones. The taking of this worrying, but not unexpected, step was justified by reference to "the victims" around the world, who "look to us to help end their suffering". The speech then closed with an appeal to governments to deliver on their promise of a world "safer from crime, safer from drugs". It seems that to question the



adequacy of drug control treaties even within the very different social, cultural and political climate of today (as Bolivia and a number of NGOs have done) constitutes a kind of heresy. This reveals a troubling and unwelcome subtext. The appeal to simplistic, good-versus-evil answers, made in the name of the victims and justified by reference to their suffering, likewise does not bode well. Many people are looking for simple answers to the challenges flowing from 'the world drug problem', but the Executive Director would be doing them no favours by offering one.

### **The Plenary – An eclectic mix of issues, but cracks in the Vienna consensus deepen**

Over the course of the week, the plenary was the site of a range of interesting discussions. Some were welcome and others of a more worrying character.

#### **President Morales sings out of tune**

It was not to be long before the source of Mr. Fedotov's immediate concern regarding the sanctity of the convention songbook was personified on the podium. Indeed, after only a limited amount of routine business, and with the Executive Director's words, choir analogy and all, still hanging in the air of the conference room, the plenary received the only head of state to attend this year's session, President Evo Morales of the Plurinational State of Bolivia. And while there were clearly diverging views on Bolivia's travails in relation to the place of coca in the Single Convention, it was generally agreed that his charismatic but carefully constructed presentation provided a breath of fresh air on the first morning of the CND.

Many of those in attendance remembered his last appearance before the UN body in 2009, when he chewed a coca leaf and challenged authorities to arrest him. This time around, he



Evo Morales addresses the Plenary on the coca issue

began by reiterating his government's "successes in combating drug trafficking in Bolivia," and then asking for the "correction of the historical error committed by a de facto government in my country 35 years ago", referring to Bolivia's withdrawal from the 1961 Convention with plans to re-accede with a reservation allowing for the traditional use of the coca leaf. The first half of his speech was dedicated to listing the "successes," including interdiction statistics – detentions, coca cultivation figures and the like – despite the steep drop in international funding. He emphasized that "in Bolivia, there will not be free cultivation of coca, but nor will there be no coca". Responding to concerns previously expressed by EU governments, Morales announced the release at the CND of the country's drug control strategy for 2011 to 2015 and that the long-awaited study of the legal uses of the coca leaf – financed by the European Commission – would be presented to the public by the end of the year. While much of this sounded like pandering to the international community, the commentary in the halls after his presentation

**Box 1. Bolivia and the Single Convention on Narcotic Drugs, 1961. A side event organised by the Permanent Mission of the Plurinational State of Bolivia**

With President Morales having sought to clarify his government's position in the plenary, the Bolivian government also held a side-event to further explain its stance with respect to the government's drug control strategy and the reservation to the 1961 convention. Lengthy speeches were given by Roberto Calzadilla, Bolivia's Ambassador to the Netherlands, and Felipe Cáceres, Vice Minister of Social Defence and Controlled Substances. Calzadilla focused on Bolivia's international drug control commitments, while Cáceres went into greater detail on present drug control efforts and the results obtained to date. The approximately 250 participants were provided with copies of the 2011-2015 drug control strategy and significant attention was paid to the EU-financed coca study. Explaining the now more than three-year delay in releasing the results, Cáceres stated that two additional investigations were underway of legal coca consumption which was not included in the original effort, and added that the final study would be released by the end of October 2012. Both panellists expressed concern about the role of the INCB; Calzadilla emphatically stated that "its role should not be to judge". Cáceres and Calzadilla were accompanied by a delegation of three coca grower leaders who provided brief comments at the end of the side event.

indicated that it had the desired effect. As one diplomat noted, "It was an excellent presentation of Bolivia's situation, striking just the right tone for the international community".

Morales then went on to explain his government's position with regards to the 1961 Single Convention, reiterating that in 1976 a military dictator signed the Convention at a time when all political activity was banned and Parliamentary controls suspended. He noted that Bolivia's presented reservation would not be valid in any other country, that there are already 35 reservations to the Convention and that the United States has a blanket reservation for any action that is contrary to its constitution. Bolivia's reservation would in fact bring its international treaty obligations in line with its new 2009 constitution. Once again, he pulled a coca leaf out, but this time did not chew it; rather, and somewhat akin to a salesman presenting his wares, he proceeded to place a box of coca tea on the podium, followed by a variety of marmalades, liquors and other coca products. "Coca is not cocaine", he concluded, "and social movements are combating the cocaine trade".

**The Roundtable sessions: Some debate, lots of statements**

As they were deemed fairly successful when first introduced in 2011, this year's Plenary continued to incorporate roundtable sessions.<sup>5</sup> As with last year's proceedings, while not entirely breaking many years of habit, the sessions went some way towards achieving their key objective of shifting the thematic debate away from prepared statements and to a limited degree encouraged some spontaneous discussion. However, that many countries still clung on to past practices suggests that the format should be reviewed for the CND's 56<sup>th</sup> session.

The focus of Roundtable (a) was **Counter narcotics efforts and the principle of common and shared responsibility: Opportunities and challenges**. The theme of common and shared responsibility in combating what is known in Vienna as 'the world drug problem' received considerable prominence at this year's CND. In shifting away from its traditional usage within UN forums, the concept has become a key one in moving the policy debate onto new ground amongst South American states, some of whom are now arguing that the existence of continued

demand in the United States and other developed nations means that the policies of repression are doomed to failure, and who are, consequently, prepared openly to discuss 'market alternatives'; diplomatic coda for regulated markets. However, these developments were not openly broached in this Roundtable discussion.

Rather, the session consisted of widespread and generalised support for the concept of a 'common and shared responsibility'. Although the translation of this objective into concrete practice continued to be somewhat vague, beyond expressions of support for the kind of measures already enshrined in the 1988 Trafficking Convention: shared criminal justice and intelligence resources, cooperation against money-laundering, training, technical support and so forth. Perhaps in response to the sense of intangibility that surrounded the discussion, the Pakistani delegate attempted to pin down some specific measures. Firstly he argued that supply-reduction must be at the very forefront of shared responsibility, insisting that the principle of shared responsibility must be operationalised and quantified if it was to be meaningful, and hinted at the "tough decisions" that would need to be made. "We don't have the luxury of being humane", he declared darkly. The responsibilities of each state required definition, and an international fund should be established from which states could draw upon to pay for the services of informers. "Technical aid and equipment won't bring many results," he went on. "That comes from informers". India agreed, stating that its experience with the payment of informers had been highly effective, and both India and Iran backed Pakistan's proposal for a clarification and quantification of 'common and shared responsibility'.

Other issues raised included the need for further alternative development, and the particular transit-related challenges faced by Western Africa and Central America. In addition, a number of speakers raised the topic of designer drugs and so called 'legal highs' or 'novel psychoactive substances'. The Polish delegate, for example, noted that many of the substances seized in his

country were made up of more than one active drug ingredient, and were of a very low purity. These posed a new challenge to which policy-makers would have to rise, said the speaker. Meanwhile Afghanistan, which had been the object of a number of implied criticisms on account of its large illicit opiate economy, stated that while it was increasing poppy eradication and doing everything it could. The key driver here was *demand*, which was both regionally and globally based, and Afghanistan stated that it wished to see more respect given for "the blood we donate to the fight", a reference to casualties amongst its law enforcement personnel.

Roundtable (b) was entitled, **Measures to prevent diversion of substances frequently used in the manufacture of narcotic drugs and psychotropic substances from domestic distribution channels, including by strengthening partnerships with the private sector**. As this suggests, the roundtable focused upon the illicit diversion of precursor chemicals from domestic distribution channels. In this regard, virtually all attending member states pledged their support for and active participation in the INCB's online pre-export notification (PEN) system, where exporting countries notify importing countries of pending shipments of precursor chemicals. Most member states also emphasized the need for greater regional and international level cooperation amongst countries (particularly producer countries that more frequently export precursors) to enhance the effectiveness of prevention measures such as the PEN system.

The importance of partnerships between various actors, such as different public agencies, pharmacies and industrial manufacturers at the national, regional and international levels was a common theme running through country statements. There were also concerns about rising trends in the use and supply of drugs, particularly synthetic drugs such as Amphetamine-Type Stimulants (ATS) and the diversion of precursors to manufacture those



drugs, for example as reflected in the *World Drug Report 2011*. Iran and Afghanistan were concerned about precursor chemicals that can be used in heroin production, particularly acetic anhydride. For Colombia, the increasing diversion of precursors to ATS was causing many problems, such as the use of premises and mobile premises as laboratories – a trend in drug supply that had replaced cocaine. Skirting around the issue of substance displacement, Colombia urged the international community to draw lessons from what it deemed to be the successful control of cocaine, and apply them to the control of ATS. It warned that even though control efforts may succeed in putting a stop to the illicit diversion of certain precursor chemicals, other chemicals will soon replace those that are successfully controlled.

### **Operational and normative segments: Interesting trends**

With the roundtable sessions held on the Monday afternoon, on Tuesday morning delegates returned to the more familiar format of the plenary session in Board Room B. As such the rest of the week saw this part of the Commission's work continue to deal with the range of standard agenda items. These included administrative, management and budgetary issues (see below), the work of the INCB (see below), "International cooperation to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion", "Implementation of the Political Declaration and Plan of Action on International Cooperation towards an integrated and Balanced Strategy to Counter the World Drug Problem" and the "World situation with regard to drug trafficking and recommendations of the subsidiary bodies of the Commission". As is the norm, most of the plenary, was taken up with the now familiar practice of delegates reciting prepared statements drafted in their capitals and constructed in such a way as to demonstrate to those in attendance just how well their country had done since the last CND

session in countering the "World Drug Problem". As such, narrative accounts and seizure statistics were plentiful and often accompanied by both blunt statements and rhetorical flourishes urging continued support for a more of the same law enforcement dominated approach to drug control. For the Russian Federation, the Plenary was told, "Modern day addiction treatment is about renouncing the taking of drugs". For the delegate from Saudi Arabia, persevering with the zero-tolerance approach was appropriate since "A long dark night is followed by bright daylight". "We will", he concluded, "solve the problem".

That this was not a universally shared position, however, became clear as the week progressed. Indeed, it is significant that in his statement at the opening of the plenary, the US "Drug Czar", Gil Kerlikowske, admitted that for what many observers regard to be the home of the 'war on drugs', "some aspects of our approach need to change". "Speaking for the experience of the United States", he went on, "I believe we have historically been over-reliant on incarceration and too slow to build a robust treatment and prevention system. We have not provided enough support to those in recovery and we have too often employed harsh rhetoric that divides instead of unites". Moreover, whereas the standard country statements of the plenary last year had been punctuated by those referring to the harm reduction approach as a normal aspect of domestic drug policies, in some instances statements this year went further in supporting more significant deviation from the US style punitive paradigm so long dominating the discourse of the international system. States as diverse as Switzerland, Iran, Portugal, Czech Republic, China and the Netherlands explicitly or implicitly continued to make statements in support of harm reduction. In terms of UN bodies and other "entities", both UNAIDS and the International Federation of Red Cross and Red Crescent Societies (IFRC) also made statements<sup>6</sup> wholly supportive of the approach. Others not only provided open support for Bolivia's actions regarding coca and the Single Convention (for

example Nicaragua, Uruguay, Venezuela and the Group of Latin American and Caribbean States – GRULAC –without Chile) but also openly supported the policy of the decriminalisation of drug possession for personal use. While Portugal, the Czech Republic and Uruguay described in positive terms their experiences with the policy, Nicaragua admitted the need to consider the approach. Significantly, the IFRC also included a line against the criminalisation of people who use drugs within its statement. While in other UN forums such statements might be of little consequence, within the CND when taken together they clearly reflected a deepening of what have been called ‘cracks in the Vienna consensus’.<sup>7</sup>

Further willingness to break the increasingly fragile consensus could be found in a number of unprecedented interventions and statements about the UN drug control conventions themselves. Having provoked a few sharp intakes of breath by commending the findings of the 2011 Report of the reformist Global Commission on Drug Policy,<sup>8</sup> the National Drug Policy Coordinator of the Czech Republic commented that “We are convinced changes in the conventions are necessary in some elements. [A] globalised world doesn’t allow us to continue with an expensive experiment on the war on drugs. We need brave steps towards better drug policies”. Similarly, and railing against the UNODC’s and INCB’s celebratory approach to the centenary of the international drug control system (see box 4), the Guatemalan delegate urged that since the international community was far from reaching the objectives set at the 1998 General Assembly Special Session on the World Drug Problem the time was right to initiate a dialogue on “effective alternative mechanisms”; a process he announced that Guatemala would be initiating in Latin America later in the month. Argentina also made an intervention within the plenary that included the notion that the UN treaties were in need of reform. At the closing session the Argentine Minister of Public Health, Juan

Manzur, said that after decades of operation and considering the poor results achieved so far, the time has arrived “to start an open debate on the consistency and effectiveness of some of the provisions contained in those treaties”.

This was not, however, a widely held position. Although many states included in their statements sentiments supportive of the conventions in their current form, Mr. Kerlikowske was very explicit in the position of the US. No doubt due in many respects to the US opposition to Bolivia’s reformist endeavours regarding the coca leaf and the precedent this might set for cannabis initiatives in a number of US states, he noted, “In the United States, we are already seeing progress but there are some who argue that the best way to reform drug policy is to scrap or rewrite the Conventions. This is a serious misjudgement...the Conventions in their current form...give Member States the flexibility they need to adjust their national policies to best serve their citizens. They form the basis for a truly global effort to reduce drug production, trafficking, and use while also ensuring the availability of internationally controlled drugs for medical and scientific purposes. The Conventions lay the groundwork for a sophisticated approach to a complicated problem”. With the US adopting such a strident position, and countries like the Russian Federation also taking on an increasingly hawkish demeanour (See Box 2), the issue of treaty reform looks set to become a major point of tension for future CND sessions; a situation that would have been unthinkable only a few years ago when it was deemed heretical to question the conventions in any significant manner.

## **The Committee of the Whole: Drug control consensus or stalemate?**

The Committee of the Whole (CoW) is the place where resolutions are negotiated and their wording refined before they are submitted to the plenary for adoption, and finally go forward to the UN’s Economic and Social Council (ECOSOC).

This year Antonio García Revilla, Peru, first vice chair of the CND, chaired the CoW. There were twelve resolutions (see Box 3) agreed, some referencing previous themes and areas, such as follow-ups on support for African countries confronted by an upsurge in trafficking and for the Paris Pact agreement on combating the supply of opiates produced in Afghanistan. Our focus here will be mainly on those policies with direct social and health implications, and on the US-sponsored resolution commemorating the signing of the 1912 Opium Convention at The Hague. Debate surrounding this resolution, which provides an overarching theme of this year's CND, illustrated the fragile nature of the drug control consensus; despite being proclaimed repeatedly by the higher echelons of the UN agencies present and by a number of member states, this consensus appears to exist only at a surface level, beneath which increasing signs of strain may be discerned.

Generally, the CoW was marked by less overt conflict between member states than has been the case in recent years. This conflict is played out in the form of stylised diplomatic tussles over forms of words, the inclusion or exclusion of certain key phrases or terms from the Commission's documentary output (such as 'harm reduction' and 'human rights'), and remains impeccably mannered at all times. It may nonetheless be indicative of deep-seated political and philosophical differences between states, all which are supposed to be accommodated, with varying degrees of comfort or discomfort, within the drug control conventions and their supplementary texts. The general absence of conflict in the CoW, however, does not have the character of a consensus of supportive participants, but rather of stalemate, in which two or more adversaries are locked into a conflict in which each side can neither win nor withdraw. The resultant positions may have the appearance of consensus, but such a consensus is recognisably tense, and, as discussed earlier in relation to the Plenary, exists only on the surface of formal governmental interactions of

the kind we see in Vienna.

This state of affairs was demonstrated most clearly in the debates around the United States-sponsored **Resolution 55/3, 'One hundredth anniversary of the International Opium Convention'**, by whose means the sponsoring Party wished to reaffirm the strong commitment to the conventions of all member states. According to the US delegate, "What's important for us is the continuing framework... (and) to reaffirm the relevance of the conventions, for which there is broad support".<sup>9</sup> Rather unusually, the Russian Federation delegation was quick to offer its congratulations and backing to the US, as was France, which went so far as to urge delegates not to make amendments to the resolution but "just push it through". This fate appeared to await the draft, with only minor adjustments being suggested until the last of the operational paragraphs was reached. At this juncture the Netherlands intervened, drawing attention to the draft's mention of "an international society free of drug abuse and trafficking", which was felt to be an unrealistic objective and does not appear anywhere in any of the UN treaties. In its place, the Netherlands wished to insert a reference to "the health and welfare of mankind" and to the provision of essential medicines while preventing their diversion and abuse. Norway supported the Dutch intervention, and called for an amendment of its own, namely, a reference to the protection of "all human rights". Familiar fissures had begun to open up once more in the structure of the CND consensus.

Pakistan in turn proposed an addition to the text, this taken from the preamble of the 1961 Single Convention and alluding to the "serious evil" of addiction, a call that was supported by the Russian Federation. The Egyptian delegation meanwhile interjected to declare its "concerns" about human rights, a term it found too general, and which "each country can interpret as it likes". Pakistan shared Egypt's "concerns" in this respect. Norway retorted that an academic treatise was

## Box 2. An increasingly hawkish Russian Federation

In 2010, IDPC noted that the US (the traditional guardian of the UN conventions) was becoming a little less obstructionist towards anything that could be conceived as a deviation from the prohibitionist ethos of the conventions, while the Russian Federation appeared to be replacing it as one of the most ardent defenders of the extant system.<sup>26</sup> While the US remains a dominant supporter of the status quo, this dynamic still appears to be valid. For example, as noted in the main text of this report, the Russian Federation opposed the inclusion of HIV specific language in the negotiations around resolution 55/5. The Russian delegate also stated in the plenary that methadone is not a medicine – a position that blatantly ignores the drug’s inclusion on the WHO essential medicines list. Moreover, the Russian Federation was exceptionally hostile to the statement made by HRI on the INCB and asked if it had been given permission to speak at the plenary. When assured by the chair that this was the case, the delegate demanded that member states should be consulted about whether NGOs should be allowed to make statements. This was an issue that the Russian Federation raised again in relation to the Commission’s final report. The Russian delegation also made a strong rebuttal of a Red Cross report examining HIV/AIDS in the Russian Federation, claiming that the data used had been inaccurate. The delegate argued that, as the INCB had pointed out, only official data produced by member states was accurate enough to be used when making such assessments. This, in fact, contradicted what Professor Ghodse had stated earlier in the week: “In order to highlight achievements and identify weaknesses in drug control, the Board draws upon a vast array of information obtained from official government sources and from the reports of international organizations in its analysis of developments in drug control”. Both incidents reveal that Russian Federation seems to duplicate its domestic hostility to civil society within UN settings.<sup>27</sup>

not necessary to specify what was meant by the term. “Human rights” was a widely known concept, he argued, and his country would insist on its inclusion. The “human rights framework has clear borders which no government should transgress”, he added, and which should always be taken into account. The Russian delegate expressed some exasperation here, appealing to the room that, “We don’t understand why this is so important to Norway. We’re mixing up other problems: this is about the functioning of the drug control Conventions, and all of it was discussed at the 2009 meetings”. The Russian delegation then suggested a constructive way forward, employing language taken from the 2009 Political Declaration,<sup>10</sup> which had already been thrashed out at length. This move was to provide a context for eventual agreement on the preamble; the Netherlands thanked Russia, as did Norway, whose delegate then reminded

us that he still wanted the reference to human rights included. “It’s not mixing up anything”, the delegate insisted. “Human rights are at the core of demand and supply reduction, and have to be addressed”. Though swiftly supported by Denmark, these remarks resulted in the diplomatic equivalent of an outburst from the French delegate, who argued that its inclusion would seriously undermine the emphasis on the drug control conventions, and that the original US proposal had been “clearly better than the present text”. His opinion was seconded by the original proposer, whose delegate announced that he was now experiencing a “*Groundhog Day* feeling”, an allusion to the film in which the protagonist lives out the same sequence of events repeatedly. “We discussed all this a couple of years ago”, he declared in a reference to the 2009 CND, adding that, “We can’t amend the treaties here”. The Russians, meanwhile,

were now supporting the French intervention and calling for a return to the original US text. In the event, and not without some adroit steering by the Chair, the debates were resolved by means of the inclusion of text taken from the 2009 Political Declaration, and it was achieved without the need for 'informals', the closed meetings that take place between states when debate in the CoW conference room becomes deadlocked.

However, it can be plausibly argued that this swift and unlikely accommodation was not so much the fruit of consensus as the tactical consequence of a stalemate. Delegates had apparently reached a tacit, unspoken agreement to avoid protracted debates over unresolved differences regarding human rights and harm reduction language, as it was clear that no meeting of minds was likely to be arrived at as a result of such exchanges. There was instead an agreement to differ, signalled by weary references from some of the delegates, in contrast to the protracted debates that have taken place in recent years, and in particular at the 52<sup>nd</sup> CND. It is evident from some of the interventions that these differences remain as wide as ever, and are liable to experience additional stress in coming years as discontent with certain aspects of the conventions continues to grow.

There were two resolutions dealing with the problems of incarceration. One, **55/12, 'Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety'**, was the result of the merging of two similar resolutions first proposed by the US and Mexico. This resolution provoked some thoughtful and nuanced remarks in the CoW. After the proposers had emerged from their informal meeting and introduced the reformulated text, a number of countries, such as Japan and Thailand, announced that it would be necessary to consult with their capitals over the legal implications. The Brazilian

delegation then intervened to state that there were fundamental problems with the text. In his view, these arose from the interweaving of two different concepts, those of punishment and of treatment. The former, he said, concerned the state's legal reaction, the latter, the right of every citizen to healthcare; the difficulty in placing these together is that, "We can end up considering treatment as a punishment". He explained that Brazil had experimented with such measures some ten years previously, and "ended up with treatment being prescribed by the legal system, by a judge". Such methods could not take account of the individual health and social circumstances of the person. For this reason, he said, Brazil prefers to make use of social and community service, which involved a positive engagement with the community; treatment should be provided in any case, but not as an alternative to prison, which should not be applied to "minor cases". Brazil was supported in this position by Uruguay; arguing that treatment is a human right and therefore a public health obligation of the state whether or not the individual was in prison. He added that drug consumption is not a crime for Uruguay, and that "alternatives to prison are required anyway, drugs or no drugs".

Russia responded to Brazil by stating that while it understood that this is a complex issue, "we have to comply fully with the Conventions", and questioned why "the element of punishment" was not more prominent: "Punishment is important in the Conventions, but missing from this resolution". He suggested that another round of informals would be needed to address the problems remaining in the text, and the Chair agreed that this looked to be the case. The resulting text was eventually agreed, with some minor revisions.

The other prison-related text was originally proposed by Ukraine, and was intriguingly entitled, **'Reintegration of persons released from prison who have renounced drug abuse'**. The draft was introduced by the



Ukrainian delegate, who explained that its objective was to help prevent the relapse of a certain category of drug-dependent people leaving prison, namely, those who had achieved abstinence while incarcerated, owing to a lack of access to drugs in that secure environment. It was immediately notable that the title's reference to renunciation was problematic, deriving more from the realm of religious belief than from contemporary understandings of drug dependence. Several countries raised the difficulty of two of the preliminary paragraphs that were at the core of the proposed text. Brazil, while welcoming the resolution, pointed out that the idea of renouncing something implies that it is primarily a question of will, but added that these questions "are more complex than that". Mexico supported Brazil and the Netherlands – while welcoming the resolution as "realistic and humane", it argued that these paragraphs implied that prison was a drug-free space. "The problem is", said the Dutch delegate, "that both drugs and HIV do enter prisons". Brazil and France both agreed, stating that prisons often initiate or increase drug problems. The Ukrainian delegate accepted these critiques, explaining that the main objective was to prevent released prisoners returning to "a drug-saturated environment... (and) ensuring a soft transition to the outside world, to normal society". The text and its title were revised to meet these concerns, and adopted accordingly.

Alongside proposals dealing with prisoners, Denmark and Italy proposed a draft resolution directed at another specific population, adopted as **Resolution 55/5, 'Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies'**. The Italian delegation introduced the text as an attempt to fill a gap for gender-specific drug demand reduction interventions. He informed the CoW that demand reduction measures are usually targeted at a neutral, abstract subject, and consequently ignored the specific

challenges faced by women who use drugs, such as prejudice, stigma and greater risks of contracting HIV. Services should be tailored, he argued, in order to meet these specific needs. There were interjections requesting the addition of reference to women working in the drug trade, such as 'mules' (this was argued by Costa Rica), and some apparent suspicion on the part of the Russian Federation, which questioned the text repeatedly, stating among other things that an allusion to 'tailor-made services' might be a covert gesture in the direction of harm reduction measures. In fact, the Russian delegate even vociferously opposed Norway's introduction of references to HIV. It was only the Norwegian delegate's dogged defence of HIV specific language that ensured it remained within the resolution. And in the end the final text also included the phrase 'related support services', again using language taken from the 2009 *Political Declaration and Plan of Action* to resolve radically differing approaches.

Drafted by Bolivia, **Resolution 55/11, 'Promotion of the use of a global seal for products of alternative development, (including preventive development, as a mechanism for facilitating and stimulating trade in products from areas affected by and vulnerable to the world drugs problem)'** was the only text presented at this year's CND that dealt with the issue of alternative development. Clearly meant to challenge existing structures on market access from Latin America to the US and the rest of the world, one of the explanations for the limited success of the current UN alternative development strategy, this resolution only survived the CoW after considerable negotiation. This was mainly thanks to the efforts of the German delegate who arduously defended the principle of a global seal for alternative development products, and resisted radical changes to the text as suggested by the US, Canada and Australia. Ultimately it was agreed that the concept of a global seal would be recommended as an exemplar, with an operative paragraph encouraging member

### Box 3. Resolutions at this year's CND<sup>28</sup>

55/1 Promoting international cooperation in responding to the challenges posed by new psychoactive substances

55/2 Promoting programmes aimed at the treatment, rehabilitation and reintegration of drug-dependent persons released from prison settings

55/3 One hundredth anniversary of the International Opium Convention

55/4 Follow-up on the proposal to organize an international workshop and conference on alternative development

55/5 Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies

55/6 Developing an international electronic import and export authorization system for licit trade in narcotic drugs and psychotropic substances

55/7 Promoting measures to prevent drug overdose, in particular opioid overdose

55/8 Follow-up to the Plan of Action with respect to the development of strategies on special marketing regimes for alternative development, including preventive alternative development

55/9 Follow-up on measures to support African States in their efforts to combat the world drug problem

55/10 Promoting evidence-based drug prevention strategies and policies

55/11 Follow-up to the Third Ministerial Conference of the Paris Pact Partners on Combating Illicit Traffic in Opiates Originating in Afghanistan

55/12 Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety (merger of L.6-Mexico and L.7- USA)

states to share experiences and proposals on special marketing structures. Behind this negotiation lay deep differences on international economic policies. This is obviously not an easy divergence of views to reconcile and the debates and negotiations will be continued at the Alternative Development Summit in Peru next November.

Finally, also of interest were Resolutions **'55/7 Promoting measures to prevent drug**

**overdose, in particular opioid overdose'** and **55/1, 'Promoting international cooperation in responding to the challenges posed by new psychoactive substances'**. Proposed by the Czech Republic and Israel, 55/7 was an important resolution that could be seen as an attempt to improve the situation of people who inject drugs in countries lacking harm reduction initiatives. As such, it was in essence one of the few harm reduction related resolutions to be discussed in the CoW in recent years. However,

unlike at previous CND sessions, this resolution was agreed without much fuss. After some debate over mention of the opioid antagonist naxolone, it passed quickly without opposition from either the US or the Russian Federation. Proposed by Australia, 55/1 sought to address an increasingly problematic issue facing national authorities and the international system alike. As events of the past few years have revealed, many states have reacted to the appearance of 'novel psychoactive substances' by immediately adding them to the list of substances under control. The UK is a case in point. It was, therefore,

interesting to note that instead of calling for them to be automatically banned and brought under international control, the Resolution asks states "to consider a wide variety of evidence based control measures to tackle the emergence of new psychoactive substances, *including the use of consumer protection, legislation regarding medicine and legislation regarding hazardous substances*" (emphasis added). As has been noted elsewhere, while not earth shattering, it is significant that member states debated and agreed that all options "should be on the table for addressing new psychoactive substances".<sup>11</sup>

#### Box 4. Country and UN satellite events

A number of country and UN side events took place in parallel with the CND proceedings. Some were co-hosted with civil society organisations (also see Box 5). Among them were:

- **Drug demand reduction and HIV/AIDS – Pakistan's trends and responses.** Organised by the Permanent Mission of Pakistan.
- **Drugged driving.** Organised by the Permanent Mission of the United States of America.
- **Bolivia and the Single Convention on Narcotic Drugs, 1961.** Organised by the Permanent Mission of the Plurinational State of Bolivia (For more details see Box 1).
- **100 years anniversary of the signing of the Hague Opium Convention.** Organised by UNODC and the International Narcotics Control Board (For more details see Box 4).
- **Reducing Negative Health and Social consequences among Injecting Drug Users in Central Asia – How to create an enabling Environment for prevention and treatment of drug dependence.** Organised by the Central Asia Drug Action Programme of the European Union, the German Development Cooperation (GIZ) and the German Federal Ministry of Health.
- **Mobilising for the prevention of drug use: the development of International Prevention Standards and the Youth Initiative.** Organised by the Permanent Mission of Norway and UNODC/Prevention, Treatment and Rehabilitation Section.
- **The Peruvian experience in tackling the world drug problem.** Organised by the Permanent Mission of Peru.
- **Emerging topics in the field of drug use disorder management as well as responses based on scientific evidence from around the world.** Organised by UNODC/Prevention, Treatment and Rehabilitation Section, World Health Organisation and the Vienna NGO Committee.

- **Regional Cooperation in Law Enforcement and Border Management for **Afghanistan and bordering countries**.** Organised by UNODC/Integrated Programme and Oversight Branch.
- **Canadian Approach to Combating Marihuana Grow Operations.** Organised by the Permanent Mission of Canada.
- **The latest trends, threats and challenges in precursor control.** Organised by the Secretariat of the International Narcotics Control Board.
- **Project DAWN: Specific interventions targeted to better meet the specific needs of drug addicted women.** Organised by UNICRI.
- **COPOLAD: EU-LAC cooperation. Achievements on drug information systems and alternative development.** Organised by the Permanent Mission of Spain.
- **Alternative Livelihoods: Experiences and Challenges of reducing illegal drug cultivation.** Organised by UNODC/Integrated Programme and Oversight Branch.
- **Strengthening of demand reduction policies as the basis of national strategies against drugs.** Organised by the Permanent Mission of Mexico.
- **Launch of the INCB Guide on Estimating Requirements for Internationally Controlled Substances.** Organised by the Secretariat of the International Narcotics Control Board.
- **Synthetic drugs.** Organised by UNODC/Laboratory and Scientific Section and the Permanent Mission of Australia.
- **Urgent actions needed to reduce drug related public health problems: The Red Cross Red Crescent approach.** Organised by the International Federation of Red Cross and Red Crescent Societies and UNODC/Drug Prevention and Health Branch.

## NGO engagement: One step forward, one stride backwards?

This year saw over 160 non-governmental organisation delegates representing 53 ECOSOC accredited NGOs attend the CND. Nonetheless, as was noted last year, fewer NGO representatives were invited to be part of country delegations than has been the case previously. For example, whereas the UK delegation included 4 NGO representatives in 2010 and 1 in 2011, there were none this year. As with other states, this may have been a result of the planned resolutions and key

themes that were likely to come up at this year's session. It may, however, have been the more significant manifestation of a shift in domestic stances on drug policy. This will certainly be an area worthy of monitoring.

That said, in terms of UN structures for dialogue going beyond the traditional observer role, overall engagement by the drug control apparatus with civil society remained largely positive. The Vienna NGO Committee on Drugs (VNGOC) continued to take responsibility for coordinating NGO involvement with the NGO lounge providing

a useful space for NGO delegates to meet before and between the sessions and to consult documentation on the CND proceedings. A table, which alas remained as disappointingly small as it was last year, located outside the CoW in Board Room A was also made available for NGOs to display reports and other documents. The VNGOC once again organised informal dialogues with the President of the INCB, the UNODC Executive Director and the Chair of the CND, in a practice that is now becoming a regular and welcome part of the agenda. In a positive step forward, this year also saw the first more general Informal Civil Society Hearing. And, unlike during the roundtable sessions, there were a number of opportunities for NGO delegates to make statements within the Plenary (See the following sections). Therefore, it must be said that the CND is continuing to improve its level of engagement with civil society. In this regard, a number of country statements and interventions referred to the necessity of NGO engagement within policy debates. However, the Commission certainly still lags well behind other parts of the UN family, particularly those dealing with human rights. Furthermore, as is discussed below, on occasions some official bodies appeared overtly hostile to comments and interventions that deviated from, or respectfully challenged, positions held by the drug control apparatus.

only allowed to be held if no official record of the discussions would be kept as part of the CND session. This clearly reflects the still cautious attitude towards engagement with NGOs. Nevertheless, all participants ranging from the UNODC Executive Director to the European Commission delegate to the Rebirth Society of Iran representative lauded the important role of NGOs in developing and implementing effective drug policies. The points of disagreement primarily fell on the role that NGOs could most usefully play and the strategies that NGOs should be supporting.

Representatives from Governments and UN agencies outlined the ways in which they have involved NGOs in their work. The INCB, for example, pointed out that it offers mechanisms for NGOs to be heard at the CND (via the Informal Dialogue with the President) and at national level during INCB country visits. However, the Board did acknowledge that it needed to improve the transparency and accountability of its work to ensure genuine engagement with NGOs. UNAIDS discussed its unique processes for enabling civil society participation, which is built upon the recognition that people affected by HIV must be at the centre of any HIV response. It was also noted that there is a particular need to include young people in decision-making bodies for HIV and drug policy issues as they are often not represented. The Czech Republic

### **The Informal Civil Society Hearing: A welcome addition**

In line with improving engagement with civil society at recent CNDs, a significant opportunity for NGO views to be heard was the newly introduced Informal Civil Society Hearing on the morning of Tuesday 13<sup>th</sup> March. Its 'Informal' status, as with the other dialogues, related to the fact that it was



Sandeep Chawla, Yury Fedotov and Carmen Buján Freire



representative was particularly supportive of NGO participation, and encouraged NGOs to continue to seek to formalise their presence, establish a permanent voice and demonstrate their added value at the CND, particularly in relation to harm reduction issues. For example, he pointed out that Resolution 55/7 “Promoting measures to prevent drug overdose, in particular opioid overdose” had been written predominantly by NGOs.

The NGOs represented at the hearing varied widely in their governance structures and mission. NGOs such as the World Federation against Drugs (WFAD) promoted civil society efforts to “reverse the drug abuse epidemic by supporting the drug-free goal”. WFAD consequently called for NGOs to work together to counteract those who call for the liberalisation of drug policies, to prioritise societal well-being over individual interests, and asserted that allowing “drug abuse” is to deny people their

right to live a life free from drugs. As such, it is clear that the NGO community is fundamentally divided in their views on what constitutes effective drug policy. While holding contrary views to WFAD, the IDPC representative chose to focus instead on discussing the need to ensure open debate at the CND, which is inclusive of civil society. It was noted that the prospect of drug policy reform is increasingly being discussed in various forums around the world, but it is concerning that the CND is not leading any of them. The VNGOC Chair echoed IDPC’s concern and recognised the pressing need to enhance NGO participation in the UN’s drug policy processes. The UNODC Deputy Executive Director wrapped up the informal session by saying that while the UNODC has a limited budget that constrains it in its support of NGOs, it can help to add value through its field offices. For example, NGO forums could connect with regional UNODC offices and contribute to regional-level processes.

### Box 5. NGO side events

Once again, civil society organisations were visible through a range of side events focusing on a number of issues. These events were targeted at member state delegates as well as NGO representatives and provided a forum for discussing key policies.



Ruth Dreifuss, former President of Switzerland



Michel Kazatchkine, former Executive Director of the Global Fund

At the Global Commission on Drug Policy event, Ruth Dreifuss (a Commissioner and former President of Switzerland) and Michel Kazatchkine (now former Executive Director, Global Fund on AIDS, TB and Malaria) spoke on the need to break the taboo on drug policy reform, especially at the CND.<sup>29</sup> A separate event saw IDPC launch the second edition of its Drug Policy Guide, which aims to facilitate a debate on new approaches to drug policy by advising on international evidence, experience and best practise on a range of drug issues.<sup>30</sup>



Panel discussion at launch of IDPC Drug Policy Guide: Fransiska Asmin (Indonesian Coalition for Drug Policy Reform), João Goulão (Portuguese Drug Czar), Ann Fordham (IDPC) and Diana Guzman (DeJusticia)

IDPC also jointly hosted with the Transnational Institute (TNI) an event on the future of the drug control conventions – an appropriate topic for discussion given the INCB and UNODC celebration of 100 years of drug control. A panel of experts, including Ruth Dreifuss and The Bolivian Ambassador to the Netherlands, Roberto Calzadilla, spoke of the need to reform existing global and national drug policy systems so that they are capable of responding to modern-day challenges.<sup>31</sup>

IDPC, the Washington Office on Latin America (WOLA) and TNI hosted a lunchtime seminar, “The Latin American Agenda for Drug Policy Reform”, at which Latin American experts presented new research on the lack of proportionality in the region’s drug laws and two government representatives commented on the growing calls across Latin America for serious drug policy reform. Participants included Diana Guzmán (DeJusticia, Colombia); Catalina Pérez Correa (CIDE, Mexico); Graciela Touze (Intercambios Civil Association, Argentina); Mariana Souto Zabaleta (SEDRONAR, government of Argentina); and Milton Romani Gerner (Ministry of Foreign Relations, government of Uruguay).

Events run by organisations more in favour of the current shape of the international drug control system included “Engaging Youth and Enrolling Community on a prevention initiative” (Associação Dianova Portugal and Dianova International), “Drug use and Families – stories of impact” (San Patrignano), and “Evidenced-Based Community Drug Prevention: Results from the Field (The Community Anti-Drug Coalition of America).

### **The NGO informal dialogue with the UNODC Executive Director: Cautious conversation**

In the week prior to the CND, NGOs were invited to submit questions that they wished to ask during the informal dialogues with the UNODC Executive Director and INCB President. It was initially feared that this would be a procedural ruse designed to constrain the discussions. It transpired, however, that participants

were also able to raise questions during the dialogues themselves. Consequently, NGO representatives posed both prepared and spontaneous questions regarding a range of issues including the UNODC’s future strategies and efforts to ensure ongoing civil society participation, access to licit medicines and the implementation of demand reduction programmes and harm reduction measures.

In response to some of these questions, and continuing to adopt a far more professional demeanour than his predecessor, Mr. Fedotov declared that the UNODC has been promoting a health-centred approach that considers human rights, and acknowledges and welcomes the contribution of NGOs. On the question about whether the UNODC had raised problems with officers undermining the delivery of services to people who use drugs with national law enforcement agencies, Mr. Fedotov said that the *Office's* message was clear: all policies in the areas of demand reduction and prevention must be humane, and people who use drugs are not to be treated as criminals but offered treatment instead. Without offering any evidence for his position, Mr. Fedotov then noted that he believed that the mood is changing amongst law enforcement agencies in favour of "a new more civilised approach". Regarding demand reduction, the Executive Director said that the UNODC promotes a one-stop shop model where all services necessary for treating drug dependency and ensuring adequate health outcomes are provided in the same centre, including opioid substitution treatment (OST) and needle and syringe programmes (NSP). In response to concerns raised about his refusal to take a position on methadone and the change of language from "needles" to "sterile equipment" in UNODC policy documents, Mr. Fedotov said that methadone is fine if prescribed by doctors and sought to allay concerns by reporting that the UNODC budget for HIV measures is much higher than its budget for demand reduction programmes. However, he conveniently side-stepped the point on needles.

Mr. Fedotov also used the Informal Dialogue to report that the UN Taskforce on transnational crime and illicit drug trafficking has begun to work towards mainstreaming the UNODC and drug issues into the UN agenda; for instance connecting drug-related problems with the achievement of Millennium Development Goals. Further, the Executive Director informed participants that since the theme for the General Assembly session in June will be drugs,

the UN *World Drug Report* will be launched at that meeting. In connection to this, Mr. Fedotov offered to hold an informal dialogue with NGOs on the side-lines of the New York meeting and IDPC will work with the UNODC to ensure that this generous offer is pursued.

### **The NGO informal dialogue with the CND Chair: Some constructive, if limited, advice**

While there is still a long way to go before this UN organ incorporates meaningful civil society engagement to the degree that some equivalent bodies do, the attendance of the CND Chairperson, Mrs. Carmen Buján Freire of Spain, at this year's informal meetings was very welcome, and in the main her tone open and collaborative.

The dialogue was held late afternoon on Monday 12<sup>th</sup> March. When asked by the VNGOC how the Commission could help to enhance NGO involvement in the roundtable discussions in the plenary, she observed that a number of the countries were, and remain, very much on the defensive regarding this issue, as the CND is about government decisions. She suggested that civil society should convince the various national delegations of the validity of its views. Mrs. Buján Freire noted that while she came from a country which encouraged NGO participation, some countries were not comfortable with such participation, and that the Chair had to respect their position. She added that it was very difficult for the Chair alone to take the issue forward; it would require the involvement of the Extended Bureau (composed of the Chair, the three vice-chairpersons and the rapporteur, together with the Presidency of the EU and the Chair of the Group of 77 and China). While was a fair position to adopt, it is also worth pointing out that, when compared to other parts of the UN system, the CND's status as an intergovernmental body cannot be used as the default defence for the marginalisation of civil society. Indeed, the UNAIDS Programme Coordinating Board is also an intergovernmental body. It, however, includes full NGO members.



Questions were posed by various NGOs, the general theme of which was the disjunction between the CND and the drug policy changes that were taking place in states around the world, such as the expansion of medical cannabis in the US and the debates around legalisation of cannabis in Catalonia, Spain. The Chair's response was that the Commission was an intergovernmental body, and that governments of UN member states would have to initiate change; without such movement from governments, the CND could do little. This was a useful meeting, but a reminder to civil society activists that, ultimately, it is the national governments that make up the Commission that need to be influenced in order to bring about more deep-rooted processes of change.

#### **The NGO informal dialogue with the INCB President: More evidence of the Board's "selective reticence"**



Gloria Lai (IDPC Senior Policy Officer) intervenes at NGO dialogue with the INCB President

In what was a reoccurring theme during the week, the INCB President Hamid Ghodse opened the dialogue by referring to the INCB's mandate as being established by initiatives at The Hague in 1912 that had been led by civil society and

reflecting their importance and willingness to lead on responses to "drug abuse".

Professor Ghodse then outlined the INCB's key priorities for the coming year as civil society participation, drug prevention and treatment, licit livelihoods, rehabilitation and assisting law enforcement with being part of the community in which people use drugs. The proliferation of internet pharmacies and diversion of licit medicines were also highlighted as areas of concern. On the lack of access to essential medicines, Professor Ghodse reported that the INCB's data on imports-exports show that 80% of the world has little or no access to drugs. Ignoring any criticisms concerning the Board's own fear of diversion from licit channels, he claimed that the reasons for poor access are due partly to the fear of drug dependency and a lack of awareness by doctors and nurses. The INCB, he continued, is addressing this problem by issuing guidelines to countries on how to assess their licit needs and requires the collaboration of the public and medical professionals if its efforts are to succeed. On the use of medical cannabis in countries with poor access to opiate-based medicines, Professor Ghodse said that the Board can only react according to the conventions but has encouraged countries to conduct research on the use of alternative medicines.

These and other issues, including Professor Ghodse's defence of the term "drug abusers" via reference to the language of the drug control treaties, however, were overshadowed by an exchange on the Board's unwillingness to take a position on the death penalty. A prepared question from Harm Reduction International (HRI) asked why the INCB recently stated that it takes no position on the death penalty for drug offences in Thailand. In response, Professor Ghodse replied, "I think it is basically the position of the Board, I hope that many of whom appreciate that we have to work within the constraints of the conventions. A number of the issues, not only the death penalty, not only sanctions, are left to the sovereign countries. And actually the level and kind of sanction

are left to the governments and not between the Board (sic)". This defence of national sovereignty is now the default position on any controversial issue involving the Board's lack of comment on issues within its purview. This is a prime example of "selective reticence": a process whereby the Board "sometimes refrains from interdiction where circumstances, and its duties under its mandate, would warrant a robust response".<sup>12</sup> On this point, a representative from HRI raised the point that the Vienna Convention on the Law of Treaties requires that the drug control conventions be interpreted alongside other international legal conventions. Given that the death penalty violates human rights treaties, he continued, the INCB should interpret the drug conventions as not allowing the imposition of the death penalty for drug offences. In response, Professor Ghodse once again reiterated that the Board had not been given the freedom to determine legal sanctions under any of the conventions, and does not operate outside of its mandate. This was an interesting defence bearing in mind the multiple examples of "mission creep", the process where the Board has exceeded its mandate, which can be seen within a range of policy related issue areas in recent years.<sup>13</sup>

In response to Professor Ghodse's answer, Allan Clear from the Harm Reduction Coalition asked, "Is there no atrocity large enough that you will not step out of your mandate to condemn it?" The President replied "No. 100 per cent not" and again reiterated his position that the Board cannot step outside of its mandate. Another intervention from HRI highlighted that a study by the International Law Commission had pointed out that no element of international law can be interpreted in a vacuum and that, as such, the Board was making a legal mistake in its interpretation of the drug control treaties. Unsurprisingly, Professor Ghodse chose not to take on this legally robust line of argumentation and rather said that they would have to agree to disagree: "Thank you for the advice. We are not going to do anymore on that. You can continue with your differences

of views". While he thanked the contributions of NGOs, he also pointed out what he believed was the unprofessional language used in certain approaches to the Board and its Secretariat and argued that this was unfortunate. As is customary behaviour for the Board, he gave no examples of such language.

### **NGO plenary statements: Censorship or protocol?**

The INCB was also at the centre of another point of tension during this year's session, this time in relation to NGO statements in the Plenary. Despite the usual confusion around when, or even whether, civil society representatives would have the opportunity to make statements, a number of organisations were given the floor. The importance of ensuring civil society participation in UN drug policy processes was a message maintained by the VNGOC and IDPC in their joint statement to the plenary. The message was particularly appropriate given that it followed a series of confrontations in the margins of the meeting between members of the CND Secretariat and representatives of IDPC, HRI and the International Network of People Who Use Drugs (INPUD) over statements that HRI and INPUD intended to deliver.

As is often the case, the statements in question had been submitted to Secretariat officers prior to their delivery ostensibly for the purpose of enabling the interpreters time to prepare translated versions. However, in an unprecedented step, the officers insisted that the statements breached the CND protocol by containing inappropriate criticism of bodies such as the INCB, and demanded that amendments be made before the statements would be allowed to be delivered.<sup>14</sup> After some deliberation, INPUD and HRI consequently made heavily edited versions to the plenary.

In their statements HRI was particularly concerned with the INCB's Annual Report, particularly the lack of response to Thailand's call for more severe death penalty measures



for drug offences and its unwarranted criticism for being contrary to the conventions of the Canadian Supreme Court's decision to allow the supervised injection site in Vancouver. HRI's Patrick Gallahue asserted that the INCB had no legal grounds for taking these positions, and in relation to Thailand stressed that "no treaty exists in a vacuum and must observe other obligations under law". He stressed that the "death penalty for drugs has been identified as a human rights violation throughout the UN system".

The UNODC was singled out in a joint statement by INPUD, HRI, IDPC and the Eurasian Harm Reduction Network (EHRN)<sup>15</sup> for its lack of leadership in promoting and enabling the implementation of measures to prevent the spread of HIV infections amongst people who use drugs, namely opioid substitution therapy, and needle and syringe programmes. These are measures that are identified by UNAIDS as being "incontrovertibly effective", and the UNODC, the statement argued, should demonstrate its commitment as a UNAIDS co-sponsor by supporting them. The VNGOC and IDPC also referred to the UNODC in saying that "HIV must be seen as a challenge in its own right, not an offshoot of demand reduction".

While lacking the frisson of these statements, as noted earlier, several other NGO contributions called for an end to the criminalisation of people who use drugs. Moreover, the IFRC reminded member states of the commitment that many of them had made to implement and scale-up the WHO/UNODC/UNAIDS comprehensive package of nine interventions for harm reduction, and urged them to remove the legal and policy barriers that block those interventions.<sup>16</sup> The Indonesian Coalition for Drug Policy Reform representative (registered with the Canadian HIV/AIDS Legal Network) was encouraged by the USA's statement on the need to modernise drug policies and ensure positive health outcomes.<sup>17</sup> She pointed to the flexibility afforded by the UN conventions for member states to adopt a range of measures, including "the option not to criminalise people

who use drugs, and the option to recognise that the priority is to provide individuals with tailored treatment and services". The International Union against Cancer and Human Rights Watch jointly congratulated the USA for leading a reorientation in drug policy away from a law enforcement-led approach towards one focused on achieving public health objectives, which should prioritise access to essential medicines.<sup>18</sup>

That NGOs were once again afforded the opportunity to make contributions to the plenary is undoubtedly a good thing and to be welcomed; as is the support for the involvement of civil society from a range of member states, prominent among them Norway. That said, it is certainly worrying that the Secretariat, or senior sections thereof, feel it necessary to effectively censor civil society statements that are not glowing endorsements of the current regime and its associated apparatus. Were the statements in breach of accepted protocol regarding etiquette, such action would be understandable. However, the selective censorship of respectfully critical statements is another example of a systemic unwillingness to engage in much needed debate about the inadequacies of the international control regime. It seems highly unlikely, for example, that the presentations of the UNODC's Youth Initiative were submitted to the Secretariat beforehand. Idealistic statements concerning the "salvation of a drug free society" are clearly on message and encouraged by the Secretariat.

### **The International Narcotics Control Board: Defending the conventions (again)**

Following the Commission's usual procedures, the INCB's President presented the Annual Report of the Board and the Board's report on precursor chemicals to the plenary. This year, the INCB dedicated its reports for 2011, published in 2012, to the hundredth anniversary of the adoption of the International Opium Convention

signed at The Hague on 23 January 1912. “This convention”, noted Professor Hamid Ghodse, “is the cornerstone of international drug control and the international community should be proud of its achievements over the past century

of international drug control”. However, in order to frame the rest of his presentation, he also stressed that “Many significant challenges remain in drug control and the Board addresses many of these in its Annual Report”.

### **Box 6. The Centennial of the Hague Opium Convention**

One side-event reflecting a key thematic reference, both for the 55<sup>th</sup> CND and the more general self-presentation of the drug control regime in recent years, was the one hundredth anniversary of the regime’s inception. There had already been celebrations to mark the 1909 Shanghai Commission, and this year (2012) represents a century since the signing of the international Opium Convention at The Hague in the Netherlands.

The session was opened by the Executive Director, who expounded a narrative of drug control development as exemplifying international cooperation in the name of public health and humanity; Professor Hamid Ghodse of the INCB then gave a more detailed account of the series of legal instruments and agencies by which the present structure was built up. Again, the process was represented as one of a unified and progressive movement acting in the interests of humanity. While these noble characteristics may be argued as elements in the strategic mix that brought about the Shanghai Commission, the Hague conferences and the subsequent 1912 Opium Convention, it is a simple historical inaccuracy to represent them as the sole or over-riding drivers of the process. In fact, the international community was riven by strife, and the leading actors in the campaign for greater control of the drug trade (such as the US) were motivated by economic and geopolitical imperatives as much as by moral concerns.<sup>33</sup> Many of the large producing nations did not wish to sign the Convention; Turkey and Germany, for example (the former a major opium cultivator, the latter the world’s leading manufacturer of pharmaceutical drugs such as cocaine), were compelled to ratify the Convention by the allies’ making it a condition of the Versailles peace treaty that concluded the armistice of World War I.<sup>34</sup>

It is also important to note that Professor Ghodse, once again repeated the erroneous figures on opium and reasons for opium reduction from the 2008 World Drug Report, which have already been exposed as a flawed attempt to rewrite history by TNI and IDPC.<sup>35</sup>

Professor Ghodse mentioned a record opium production of 41,000 metric tons in 1906/07, almost five times more than the global illicit opium production a century later. The number crunching might look impressive, but closer scrutiny reveals that it is based on a misrepresentation of the figures and on comparing apples with pears. Medicinal use of opium, for instance, was widespread, since opium was the only effective medicine available for many ailments. In the absence of affordable analgesics for common people, opium was often used as a pain killer and also as household remedy for all kinds of familiar ailments such as diarrhoea, dysentery, cough relief, bronchitis, asthma, and against symptoms of cholera, malaria, and tuberculosis. It also helped to overcome tiredness, hunger, and cold. According to Professor Frank Dikötter, “In a climate marked by frequent and sometimes lethal dysentery, no remedy was more effective than opium”.<sup>36</sup>

In order to compare production and consumption figures a century apart, one should take into account that a lot of the use in the past is now replaced with other regular medicines and remedies

to treat these diseases, such as antibiotics as well as synthetic opioids and other lighter painkillers, antipyretic analgesics including paracetamol, aspirin and ibuprofen. Opium was, as it were, the aspirin of the era. Every household would contain it, as a general cure-all and a treatment for cholera and other gastro-intestinal conditions, malaria, etc. It was later replaced by antibiotics, quinine, etc. Public health also increased significantly which made these complaints much less prevalent: sewerage, clean drinking water, cleaning products etc. According to the Aspirin Foundation approximately 35,000 metric tonnes are produced annually.

In other words, twisted logic is used to fabricate comparisons with higher opium production a century ago and presenting all opium use as problematic. Another question is how reliable are the 1906/07 production figures? They were based on a report of the Chinese delegation to the International Opium Commission (IOC) in Shanghai in 1909. These estimates, however, were in fact challenged at the IOC itself. According to an article in the British Medical Journal (BMJ) of 8 January 1910, "The statistics in [the] report [of the Chinese delegation] are of very little value". The BMJ goes on to point out that, "They were challenged by the British delegates, with the result that the Chinese delegation has represented to the Government the necessity of obtaining more reliable data. The figures dealing with the growth of the poppy and the consumption of opium are, as a rule, nothing more than rough estimates or mere expressions of opinion".

Overall then, what the Centenary session presented was a version of history that suited the present drug control arrangement, and the image of itself it wishes to project to the diverse publics of the twenty-first century world: one in which conflicts are transcended by a collective desire to suppress the 'evil of drugs', and where the treaties that have allegedly served the world faithfully down the years deserve unquestioned support in the present. However, there can be little doubt that this tale of stability and security is being deployed in response to an underlying unease, a sense that the conventions are in fact under threat. Such a perception is indicated by other themes appearing in it. As in his opening speech, Mr. Fedotov concluded with an implicit censure of Bolivia; shared responsibility, he states, means that "unilateral changes in drug policy have a strong impact on the drug control system and upon other States". He went on to say that, "...we need more international cooperation, not less". He concluded stating that, "we need to do what those States in the beginning of the 20<sup>th</sup> century did: join forces and reaffirm our commitment to the international system of drug control".

Professor Ghodse likewise concluded with a call to the ramparts: "The integrity of the conventions must be safeguarded..." As was the case in his plenary statement on the Board's Annual Report, the mentions given to the role of civil society are also notable in this respect, for the Professor reminded us that "there was a movement of progressive non-governmental organisations that worked to...promote the health and welfare of the public". He was referring here to the (primarily religiously inspired) prohibitionist movement that had both alcohol and opium in its sights, and was indeed influential in bringing about change. While IDPC would argue that contemporary civil society organisations with a critical perspective on the present system are also motivated by issues of public health and welfare, we question whether the way to achieve these is through an act of faith in the immutability of the drug control conventions, or, indeed, on a particular set of interpretations thereof, which this session concluded with an appeal to us all to defend.

Significantly, the Netherlands – the country where the 1912 Opium Convention was negotiated and signed – opted to not join the celebrations. "Silence", as they say, "speaks volumes".

Along with the situation in Afghanistan, internet pharmacies and diversion, prominent among these was this year's choice of issue for chapter one; the section of the report where the Board focuses upon a particular topic of concern in an attempt "to promote the identification and implementation of solutions". In his account of "social cohesion, social disintegration and illegal drugs" Professor Ghodse stated, "The decision to abstain from or engage in drug-related behaviour lies primarily with the individual. However, in some communities, drug abuse has become highly prevalent, part of a vicious cycle of social problems. The situation in these marginalised communities poses a threat to the members of the communities, and to society at large". In principle, this is certainly an area worthy of attention. Yet, in addition to a lack of academic rigour expected in a report with such prominence, the chapter unfortunately also works on the assumption of a neatly bifurcated social environment where the inhabitants of 'disorganised' or 'marginal communities' pose a threat to the wider society.<sup>19</sup>

While important as a signifier of the Board's often simplistic and/or selective portrayal of complex situations, the contents of chapter one (and in fact most of the report) were, however, largely overshadowed by Professor Ghodse's comments upon Bolivia.<sup>20</sup> He began by noting that, "The Board has for several years expressed its concern

regarding aspects of drug control policy in the Plurinational State of Bolivia that contravene the international drug control conventions, in particular, the national legislation that allows the cultivation and consumption of coca leaf for non-medical purposes, especially chewing of coca leaf". "The Board", he continued, "has noted with regret the step taken by the Government of Bolivia to denounce the 1961 Convention as amended by the 1972 Protocol. The Board has expressed its concern that the action is contrary to the fundamental object and spirit of the Convention". Revealing the true source of the INCB's anxiety, and ignoring the fact that La Paz had been forced to pursue denunciation rather than amendment due to opposition from a US-led coalition that had been bolstered by statements from the INCB itself, Professor Ghodse went on to say, "The Board has noted that the integrity of the international drug control conventions would be undermined if the international community was to adopt an approach whereby States parties would use a mechanism of denunciation and re-accession with reservations to overcome problems in the implementation of specific provisions of the treaties". Amongst this raft of questionable statements, Professor Ghodse did make one very good point. He noted that "...the matter is ultimately for the decision of Governments". However, in adding that, "the Board feels that it is its duty to ensure that Governments are aware of

### **Box 7. WHO: Ongoing funding issues**

In the CND proceedings report for 2011, IDPC highlighted the unwarranted marginalisation of the WHO at the session.<sup>32</sup> This remained the case this year, especially in relation to the prominence afforded to another treaty body, the INCB. There was better news on the activity of the WHO's Expert Committee on Drug Dependence. As IDPC noted with concern in last year's proceedings document, the ECDD has been unable to convene since 2006 due to a lack of funding. This resulted in a backlog of substances to be evaluated. It was pleasing to hear, therefore, that despite ongoing funding issues, the Committee will meet in June this year. Resource on this occasion has been found from within the regular budget, but this does not appear to be sustainable. Indeed, a planned meeting in 2013 currently remains unfunded. As a consequence, IDPC once again urges member states to provide the necessary financial backing to allow the ECDD to continue in its vital work.

this threat to the integrity of the international drug control conventions. If the Board was not to do so, it would have failed in its duty” he continued to misrepresent the INCB’s role as the guardian of the conventions. In fact, had it been performing its proper function as a watchdog of the treaties, the Board should have fulfilled its mandated duty by helping to resolve emerging areas of tension between situations within nation states and the conventions.<sup>21</sup> This includes legitimate and necessary attempts by a party to the Single Convention to reconcile its treaty obligations with its own constitutional requirements.

Indeed, this general point, and the important and closely related issue of “ongoing dialogue” between the Board and state parties, provoked a relatively rare overt criticism of the Board during the plenary debate. While many country statements generally, and almost robotically, applauded its work, the GRULAC expressed its view that in-depth dialogues between member states and the INCB must be held. Such discussion, it believed, would enable the INCB to understand the varied reality within individual countries, including the specific challenges that are faced. Such a process would, the GRULAC contended, result in more integrated and impartial reports from the Board. However, these statements did not appear in the draft final report of the meeting and Ecuador had to intervene in the name of GRULAC to have it mentioned in the report again.

As it was, impartiality was also somewhat absent from the final section of Professor Ghodse’s presentation. In what can be seen as implicit, if not overly nuanced, criticism of NGOs supportive of not only Bolivia’s efforts but also the opening of a debate on some form of revision of the current treaty system, he once again used the convergence of this year’s presentation with the centenary of The Hague Convention to “pay tribute” to “progressive non-governmental organisations”. According to Professor Ghodse, over a century ago, these groups “had the foresight to lobby for international cooperation

to protect individuals from drug abuse and to help them preserve their right to be free from drug abuse and drug dependency”. In a concluding request to the assembled delegates, he added, “Let us honour those who have fought so tirelessly in drug control over the past century – and those who have suffered from drug abuse, drug addiction, or from crime and violence associated with drug trafficking – by working to make the next century of drug control even more successful than the last”. Although the highly contentious notion of a “successful” century of drug control is not new, it is interesting to see the emergence of a framing exercise whereby NGOs that do not support the current conventions in their entirety are presented as regressive.

### **UNODC finances – Stable, but constrained by earmarking**

The financial health of the UNODC clearly remains a core concern for its senior management, although the issue did not receive the prominence it has had in previous years. For instance, it was not mentioned in the Executive Director’s opening statement. This no doubt reflected a slight improvement in the *Office’s* budgetary situation. As the Director of the UNODC Division for Policy Analysis and Public Affairs, Mr. Sandeep Chawla, noted during a presentation on the work of the *Office* during the plenary, “Overall the financial situation of the *Office* is stable”. He continued to point out, however, that “the prevailing economic situation warrants continued caution and restraint and UNODC continues to exercise prudence in the utilisation of both our General Purpose Funds as well as our programme support costs”.

Mr. Chawla’s note of cautious optimism derives primarily from events in New York. Pursuant to General Assembly Resolution 65/233, ‘International cooperation against the world drug problem’ in April last year,<sup>22</sup> the Secretary-General submitted proposals in his



programme budget for 2012-13 to ensure that the UNODC had sufficient funds to fulfil its mandates effectively. The General Assembly subsequently approved a small increase to the UNODC's funding from the UN's regular budget.<sup>23</sup> This \$1.7m increase resulted in a rise from \$39.2m in the biennium 2010-11 to \$40.9m in the present biennium (2012-13). As Mr. Chawla informed the plenary, this translates to eight additional UNODC posts. Although the details of these have yet to be announced, this is clearly a welcome corrective to the dominant 'more with less' narrative of previous years,<sup>24</sup> particularly if more resource were to go to assist in the important work performed by the data and research division. Indeed, the presentation to the plenary by Angela Me's, chief of UNODC's statistics and surveys section, demonstrated once again that our understanding of the global market for controlled drugs remains constrained by a lack of data in certain parts of the world, Africa notable among them.

Including this small increase in regular budget contribution, the total consolidated budget for UNODC for the biennium 2012-13 is \$561.5m. Of this, 15.3% comes from UN regular budget funds with the remaining 84.7% being extra budgetary resource. Total voluntary funding in the biennium 2010-11 was \$491m with the division in contributions between the drugs and crime programmes now being 60-40. And while decisions in New York indicated a slight change in the size of funding streams to the drugs programme, the patterns of voluntary funding remained very much the same during this period as it had in previous years. As has been the case for the past decade or so, there continued to be a high level of earmarking. It is important to note that the unearmarked general purpose funding for the biennium 2010-11 (\$26.4m) did represent an 18% increase on the previous period. This, however, was due to a one off contribution in 2010 from the Russian Federation at the time they lobbied to get Mr. Fedotov nominated as Executive Director. A small group of Major Donors (Australia, Austria, Belgium, Denmark, Finland,

France, Germany, Japan, Luxembourg, Norway, Sweden Turkey and the USA) almost exclusively provided general purpose funding in 2011.<sup>25</sup> Yet, as Mr. Chawla noted, "Overall, the general trend of general purpose funding continues to be negative as it has been over the last decade". This was an issue mentioned by various states during the course of the Plenary, with Norway suggesting that general purpose funding requests should be included within programme funding and that the UNODC should consider not taking on projects without such funding support.

The continuing lack of un-earmarked funding remains one of the *Office's* central challenges. "We have very wide ranging mandates which leaves us with one principle difficulty which we have acquainted the Commission with several times", Mr. Chawla informed the Plenary. He continued to emphasise the UNODC's predicament by stating, "We have a minimal core capacity to develop, implement, monitor and evaluate technical assistance programmes because the proportion of our sustainable funding that comes towards these core functions from the regular budget is very small proportion of total funding. We therefore have a considerable discrepancy between regular budget and extra budgetary funding and this results in unpredictability of funding as well as limiting our capacity to plan adequately over a multiyear period".

It also became apparent that an additional challenge faced by the UNODC is the emerging phenomenon of "double earmarking". Voluntary contributions have long been earmarked to geographic and thematic activities. Now, however, there is a growing trend to include "bilateral performance accountability criteria" for the execution of programmes as well. Although the inclusion of accountability mechanisms is in essence a positive move, IDPC has sympathy with the *Office's* view that double earmarking, and therefore double accountability, leaves it "with administrative inefficiencies, with higher transaction costs, a deflection of strategic priorities and difficult questions of ownership".

As we have noted in previous reports on CND proceedings, member states, now including increasingly important Emerging and National Donors, as well as non-traditional donors and partners, must be willing to provide sufficient un-earmarked general purpose funding to allow the UNODC to fulfil its mandates. Without adequate and stable funding streams, the *Office* cannot realistically be expected to deliver the increasingly widespread array of duties demanded by member states. It is not unreasonable to suggest, however, that reliable funding should be accompanied by increased transparency and adaptation to a more modern attitude to civil society participation and dissenting voices along models that exist in other UN agencies, such as the Human Rights Council.

## Conclusions

What are we to take from this year's CND? In some respects it might be regarded as a significant, if not landmark, year. While ongoing, Bolivia's denunciation with re-accession and reservation to the Single Convention represents the first formal challenge to the prohibitionist ethos at the heart of the current system; a process that received some support rather than simply opprobrium from members of the regime, if not the UN drug control apparatus. Moreover, although specific in its discontent and isolated in the nature of its actions vis-à-vis the 1961 Convention, Bolivia was not alone in questioning the – until recently apparently – sacrosanct UN drug control treaties. This was particularly the case for some Latin American states who have often suffered disproportionately from the negative effects of supply-oriented strategies and violent drug markets. Added to this, decriminalisation of drug possession for personal

use beyond harm reduction interventions in relation to injecting drug use could also be seen as a policy approach generating explicit support from states from both within Latin America and Europe. The significance of the US admission of an over reliance on incarceration within its previous policy approaches must also not be forgotten.

That said, this year's CND certainly did not mark the beginning of a brave new world of international drug control. As could be seen from statements and debates within the Plenary and the CoW, the majority of member states who chose to be vocal on the issue remain very much in favour of the status quo, the US and the Russian Federation prominent among them. And these states receive overwhelming support from both the UNODC and the INCB. Moreover, although civil society engagement with CND processes has undoubtedly improved from its admittedly low starting point in recent years, there remains significant tension around what are implicitly defined by the Board as 'regressive' NGO contributions to the debate. It is clear, however, that debate must be had. Current realities cannot be ignored. Within an environment of increasingly fractured consensus, it is IDPC's view that such debate must be respectful and inclusive. No actor, ECOSOC accredited NGO or state, has called for the abandonment of the treaty system in its entirety. But as some states seek to develop national systems more in line with specific realities and needs of the twenty-first century, Mr. Fedotov's point that the international system "contains many voices" is more apt than ever before. The challenge for the following years is to truly embrace the spirit of the rest of his message that "all" voices "are welcome" and that "none can be excluded".

**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 occasional briefing papers, disseminates the reports of its member organisations about particular drug-related matters, and offers expert consultancy services to policy makers and officials around the world.**

## Endnotes

- 1 International Drug Policy Consortium (2011), *The 2011 Commission On Narcotic Drugs – Report of proceedings* (London: IDPC), <http://dl.dropbox.com/u/64663568/library/idpc-report-cnd-proceedings-document-2011.pdf>
- 2 Mr. Fedotov's opening speech is available at: <http://www.unodc.org/unodc/en/speeches/speech55sessioncommission-on-narcotic-drugs.html>
- 3 Costa, A.M. (2008), Conference Room Paper, *Making Drug Control Fit for Purpose: Building on the UNGASS Decade*, <http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17.pdf>
- 4 See discussion in International Drug Policy Consortium (2011), *The European Union and Illicit Drug Market Indicators* (London: IDPC), <http://idpc.net/publications/2011/08/the-eu-and-illicit-drug-market-indicators>. See also: 'Chapter 2.2' in International Drug Policy Consortium (2012), *IDPC Drug Policy Guide, Second Edition* (London: IDPC), <http://idpc.net/publications/2012/03/idpc-drug-policy-guide-2nd-edition>
- 5 International Drug Policy Consortium (2011), *The 2011 Commission On Narcotic Drugs – Report of proceedings* (London: IDPC), p. 3, <http://dl.dropbox.com/u/64663568/library/idpc-report-cnd-proceedings-document-2011.pdf>
- 6 <http://www.cndblog.org/2012/03/day-3-plenary-statement-by-unaid.html> and <http://www.cndblog.org/2012/03/statement-from-international-federation.html>
- 7 See background to this issues: Jelsma, M. & Metaal, P. (2004), *Cracks in the Vienna Consensus: The UN drug control debate* (WOLA Drug War Monitor), <http://www.tni.org/article/cracks-vienna-consensus-briefing>
- 8 <http://www.globalcommissionondrugs.org/>
- 9 Quotations of delegates are derived from notes recorded at the CND unless otherwise indicated.
- 10 <http://www.unodc.org/documents/commissions/CND-Uploads/CND-52-RelatedFiles/V0984963-English.pdf>
- 11 Barrett, D. (2012), 'Why a new UN resolution on "legal highs" matters', *Huffington Post*, [http://www.huffingtonpost.co.uk/damon-barrett/why-a-new-un-resolution-o\\_b\\_1355776.html](http://www.huffingtonpost.co.uk/damon-barrett/why-a-new-un-resolution-o_b_1355776.html)
- 12 International Drug Policy Consortium (2008), *The International Narcotics Control Board: Current tensions and options for reform*, Briefing Paper 7, (London: IDPC, 2008), p. 10, [http://dl.dropbox.com/u/64663568/library/IDPC\\_BP\\_07\\_INCB\\_TensionsAndOptions\\_EN.pdf](http://dl.dropbox.com/u/64663568/library/IDPC_BP_07_INCB_TensionsAndOptions_EN.pdf)
- 13 Ibid. p. 8.
- 14 <http://www.cndblog.org/2012/03/plenary-statement-from-inpud-on-agenda.html> and <http://www.cndblog.org/2012/03/plenary-day-4-statement-from-hri.html>
- 15 [http://www.cndblog.org/2012/03/plenary-day-3-drug-demand-reduction-and\\_46.html](http://www.cndblog.org/2012/03/plenary-day-3-drug-demand-reduction-and_46.html)
- 16 <http://www.cndblog.org/2012/03/statement-from-international-federation.html>
- 17 <http://www.cndblog.org/2012/03/day-3-plenary-statement-made-by.html>
- 18 [http://www.cndblog.org/2010/03/cnd-day-3-plenary-statement-of\\_10.html](http://www.cndblog.org/2010/03/cnd-day-3-plenary-statement-of_10.html)
- 19 Harm Reduction International (2012), *Commanding general confidence? Human rights, international law and the INCB Report for 2011*, <http://www.ihra.net/contents/1197>
- 20 Transnational Institute & Washington Office on Latin America (2012), *The UN International Narcotics Control Board releases 2011 Annual Report – Accuses Bolivia of threatening integrity of the global drug control system by reserving the right to use coca leaf*, Press release, <http://www.druglawreform.info/en/newsroom/press-releases/item/3218-the-un-international-narcotics-control-board-releases-2011-annual-report>
- 21 Bewley-Taylor, D. & Trace, M. (2006), *The International Narcotics Control Board: Watchdog or guardian of the UN drug control conventions?* (London: Beckley Foundation Drug Policy Programme), [http://dl.dropbox.com/u/64663568/library/BFDPP\\_RP\\_07\\_TheINCB\\_EN.pdf\\_0.pdf](http://dl.dropbox.com/u/64663568/library/BFDPP_RP_07_TheINCB_EN.pdf_0.pdf)
- 22 United Nations General Assembly, Sixty-fifth session, Agenda Item 106, Resolution adopted by the General Assembly, 65/233, *International cooperation against the world drug problem*, A/RES/65/233, 6 April 2011, <http://www.unhcr.org/refworld/category,LEGAL,UNGA,,,4bfce8332,0.html>
- 23 Less than 1% of the UN's regular budget is allocated to the UNODC
- 24 International Drug Policy Consortium (2011), *The 2011 Commission On Narcotic Drugs – Report of proceedings* (London: IDPC), pp. 19-20, <http://dl.dropbox.com/u/64663568/library/idpc-report-cnd-proceedings-document-2011.pdf>
- 25 United Nations, Economic and Social Council, Commission on Narcotic Drugs, Fifty-fifth session, Commission on Crime Prevention and Criminal Justice, Twenty-first session, *Activities of the United Nations Office on Drugs and Crime. Report of the Executive Director*, E/CN.7/2012/3-E/CN.15/2012/3, 3 February 2012, [http://www.unodc.org/documents/commissions/CND-session55/ECN7\\_2012\\_CRP\\_8\\_e\\_V12522831.pdf](http://www.unodc.org/documents/commissions/CND-session55/ECN7_2012_CRP_8_e_V12522831.pdf)
- 26 International Drug Policy Consortium (2010), *The 2010 Commission On Narcotic Drugs – Report of proceedings* (London: IDPC), <http://dl.dropbox.com/u/64663568/library/CND%20Proceedings%202010%20final.pdf>
- 27 See for example recent government actions against the Andrey Rylkov Foundation, <http://drogriporter.hu/en/helpARF>
- 28 The texts of all of the 2012 CND resolutions are included in the official Report, available at: [http://www.unodc.org/documents/commissions/CND-session55/Report/E2012\\_28\\_ECN7212\\_18\\_corr..pdf](http://www.unodc.org/documents/commissions/CND-session55/Report/E2012_28_ECN7212_18_corr..pdf)
- 29 <http://www.cndblog.org/2012/03/idpc-side-event-global-commission-on.html>
- 30 <http://www.cndblog.org/2012/03/idpc-side-event-launch-of-idpc-drug.html>
- 31 <http://www.cndblog.org/2012/03/day-3-side-event-future-of-drug-control.html>

- 32 International Drug Policy Consortium (2011), *The 2011 Commission On Narcotic Drugs – Report of proceedings* (London: IDPC), <http://dl.dropbox.com/u/64663568/library/idpc-report-cnd-proceedings-document-2011.pdf>
- 33 McAllister, W.B. (2000), *Drug diplomacy in the twentieth century: An international history* (London and New York: Routledge)
- 34 Berridge, V. (1999), *Opium and the people: Opiate use and drug control policy in nineteenth and early twentieth century England* (London: Free Association Books), pp.239-260
- 35 Transnational Institute (2008), *Rewriting history: A response to the 2008 World Drug Report*, Drug Policy Briefing No 26, <http://druglawreform.info/images/stories/brief26.pdf>; International Drug Policy Consortium (2008), *The 2008 World Drug Report: A response from the International Drug Policy Consortium* (London: IDPC), [http://dl.dropbox.com/u/64663568/library/IDPC\\_ResponseWorldDrugReport\\_Sept08\\_EN.pdf](http://dl.dropbox.com/u/64663568/library/IDPC_ResponseWorldDrugReport_Sept08_EN.pdf)
- 36 Dikötter, F. (2003), 'Patient zero': *China and the myth of the 'opium plague'*, Inaugural Lecture at the School of Oriental and African Studies, University of London, [http://web.mac.com/dikotter/Dikotter/Publications\\_files/The%20Myth%20of%20Opium.pdf](http://web.mac.com/dikotter/Dikotter/Publications_files/The%20Myth%20of%20Opium.pdf)

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